

**Report of the  
Comptroller and Auditor General of India  
for the year ended March 2020**



**लोकहितार्थं सत्यनिष्ठा**  
**Dedicated to Truth in Public Interest**

**Union Government  
Department of Revenue – Direct Taxes  
Report No. 8 of 2021**



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Comptroller and Auditor General of India**

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**Laid on the table of Lok Sabha and Rajya Sabha on \_\_\_\_\_**



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## **Preface**

This Report for the year ended March 2020 has been prepared for submission to the President under Article 151 of the Constitution of India.

The Report contains significant results of the compliance audit of the Department of Revenue-Direct Taxes of the Union Government.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2019-20 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2019-20 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.





## Highlights

The Comptroller and Auditor General of India conducts the audit of receipts of the Union Government under section 16 of the Comptroller and Auditor General of India (Duties, Powers and Conditions of Service) Act, 1971. This Report primarily discusses compliance to the provisions of the Income Tax Act, 1961 and the associated rules, procedures, directives etc. as applied to all aspects related to the administration of direct taxes. The Report is organised into four chapters, the highlights of which are described below:

### Chapter I: Direct Taxes Administration

Direct taxes receipts of Union Government in the financial year (FY) 2019-20 amounting to ₹ 10,50,686 crore decreased by 7.6 *per cent* over the FY 2018-19 (₹ 11,37,718 crore). Direct taxes represented 5.2 *per cent* of the gross domestic products (GDP) in FY 2019-20. The share of direct taxes in gross tax revenue decreased to 52.3 *per cent* in FY 2019-20 from 54.7 *per cent* in FY 2018-19.

Despite decrease in the direct tax collection in FY 2019-20, there was an increase of 13.9 *per cent* in refunds issued during FY 2019-20 (₹ 1,83,431 crore).

Of the two major components of direct taxes, collections from Corporation Tax decreased by 16.1 *per cent*, from ₹ 6.63 lakh crore in FY 2018-19 to ₹ 5.57 lakh crore in FY 2019-20. Collections from Income Tax increased by 4.0 *per cent* from ₹ 4.62 lakh crore in FY 2018-19 to ₹ 4.80 lakh crore in FY 2019-20.

The number of non-corporate assesseees increased from 6.20 crore in FY 2018-19 to 6.39 crore in FY 2019-20, registering an increase of 3.16 *per cent*. The number of corporate assesseees decreased from 8.46 lakh in FY 2018-19 to 8.38 lakh in FY 2019-20, registering a decrease of 0.9 *per cent*.

The arrears of demand increased from ₹ 12.3 lakh crore in FY 2018-19 to ₹ 16.2 lakh crore in FY 2019-20. The net collectible demand increased to ₹ 38,734 crore in FY 2019-20 as compared to ₹ 14,593 crore in FY 2018-19. The Department indicated that more than 97.6 *per cent* of uncollected demand would be difficult to recover.

The number of appeals pending with CIT (Appeals) increased from 3.4 lakh in FY 2018-19 to 4.6 lakh in FY 2019-20. The amount locked up in these cases was ₹ 8.8 lakh crore in FY 2019-20.

The CBDT raised the monetary limit for filing appeals by the Department before ITAT, High Court and Supreme Court from ₹ 20 lakh to ₹ 50 lakh, ₹ 50 lakh to ₹ one crore and ₹ one crore to ₹ two crore respectively. The total

cases pending decreased marginally by 8.1 *per cent* i.e. from 1.35 lakh cases in FY 2018-19 to 1.24 lakh in FY 2019-20.

## **Chapter II: Audit Mandate, Products and Impact**

Section 16 of the CAG's DPC Act authorises CAG to audit all receipts of the Government of India and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed.

We audited 1,888 out of total 6,249 assessment units during the FY 2019-20 and issued 16,193 audit observations. We found mistakes even in 805 assessments which the Internal Audit had already checked.

As of 31 March 2020, there were 54,177 pending audit observations with revenue effect of ₹ 1.31 lakh crore for want of replies from the ITD.

We issued 577<sup>1</sup> high value cases to the Ministry and CBDT during August 2020 to December 2020 seeking their response within six weeks of receipt of the same. However, we received replies from the Ministry/CBDT only for 43 high value cases (July 2021).

Out of these cases, the ITD had either completed or initiated remedial action in 491 cases (85 *per cent of all cases*) having a tax effect of ₹ 3,597.06 crore.

The ITD did not produce 19,388 out of 2,79,939 records (6.92 *per cent*) requisitioned by us during FY 2019-20, of which 1,488 records (1,479 records pertains to Tamil Nadu) pertaining to the same assessees were not produced in three or more consecutive audit cycles.

In the last three years, the ITD recovered ₹ 525.98 crore from demands raised to rectify the errors at the instance of audit.

## **Chapter III: Corporation Tax**

We pointed out 356 high value cases pertaining to Corporation Tax with tax effect of ₹ 12,476.53 crore. We classified these cases in four broad categories viz.

- (a) Quality of assessments (134 cases);
- (b) Administration of tax concessions/exemptions/deductions (157 cases);
- (c) Income escaping assessment due to errors (51 cases) and
- (d) Over-charge of tax/interest (14 cases).

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1 One DP is having observation on both under assessment and over assessment for two AYs, hence considered as two cases in other places of the Report.

Out of 356 high value cases cited we have illustrated 38 instances of significant errors/irregularities in corporation tax assessments involving tax effect of ₹ 3,976.56 crore. The irregularities illustrated in this chapter include: incorrect allowance of deduction under section 10AA of the Act to an assessee at inadmissible rate of 100 *per cent* instead of 50 *per cent* in the sixth year of operations involving tax effect of ₹ 1,262.76 crore; income not assessed in case of a banking company, on account of balance under Foreign Currency Translation Reserve (FCTR), involving tax effect of ₹ 774.72 crore; omission to levy tax on unexplained cash credit in lieu of share premium of ₹ 467.70 crore involving tax effect of ₹ 155.36 crore (excluding interest); and incorrect allowance of pre-paid taxes of ₹ 65.66 crore instead of available credit of ₹ 1.01 crore on account of TDS paid by the assessee and errors in levy of interest involving tax effect of ₹ 95.04 crore.

#### **Chapter IV: Income Tax**

We pointed out 222 high value cases of income tax with tax effect of ₹ 416.60 crore. We classified these cases in four broad categories as follows:

- (a) Quality of assessments (166 cases);
- (b) Administration of tax concessions/exemptions/deductions (18 cases);
- (c) Income escaping assessments due to errors (29 cases); and
- (d) Over charge of tax/interest (nine cases).

Out of 222 high value cases cited, we have illustrated 39 instances of significant errors/irregularities in income tax assessments involving tax effect of ₹ 251.85 crore. The irregularities illustrated in this chapter include: incorrect allowance of unpaid taxes of ₹ 45.60 crore and non-levy of interest involving tax effect of ₹ 68.12 crore; incorrect levy of interest of ₹ 21.60 crore on account of non-filing of return within the due date, short payment of tax and default in payment of advance tax; incorrect allowance of brought forward loss of ₹ 26.44 crore involving tax effect of ₹ 12.32 crore; and incorrect computation of demand payable of ₹ 103.22 crore instead of correct payable demand of ₹ 115.53 crore involving short levy of tax of ₹ 12.31 crore.



## Chapter I: Direct Taxes Administration

This chapter gives an overview of the direct taxes administration, revenue trends in direct taxes collection and tax administration process in the Income Tax Department (ITD).

### 1.1 Direct Taxes

This Audit Report covers levy and collection of direct taxes. The direct taxes covered in this report are discussed below:

- a) **Corporation Tax (CT):** Corporation Tax is a direct tax imposed on the net income or profit that enterprises make from their businesses. Companies, both public and privately registered in India under the Companies Act 1956/2013, are liable to pay Corporation Tax. This tax is levied at specific rates according to the provisions of the Income Tax Act, 1961.
- b) **Income Tax (IT):** Income Tax is a direct tax imposed on the net income or profit that persons other than companies make from their earnings or gains, at specific rates according to the provisions of the Income Tax Act, 1961.
- c) **Other Direct Taxes (ODTs):** Direct Taxes other than Corporation Tax and Income Tax, for example, Securities Transaction Tax (STT)<sup>2</sup>, Wealth Tax<sup>3</sup>, etc.

### 1.2 Organizational Structure

The Department of Revenue (DoR) of the Ministry of Finance (MoF) functions under the overall direction and control of the Secretary (Revenue) and co-ordinates matters relating to all the direct and indirect Union Taxes through two statutory boards namely, the Central Board of Direct Taxes (CBDT) and the Central Board of Indirect Taxes and Customs (CBIC), constituted under the Central Board of Revenue Act, 1963. Matters relating to the levy and collection of direct taxes are looked after by the CBDT.

As on 31 March 2020, the overall staff strength and working strength of the Income Tax Department (the ITD) was 76,241<sup>4</sup> and 45,750 respectively. The sanctioned and working strength of the officers<sup>5</sup> was 10,858 and 9,333

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2 Tax on the value of taxable securities purchased and sold through a recognized stock exchange in India.

3 Tax chargeable on the net wealth comprises certain assets specified under section 2(ea) of the Wealth Tax Act, 1957.

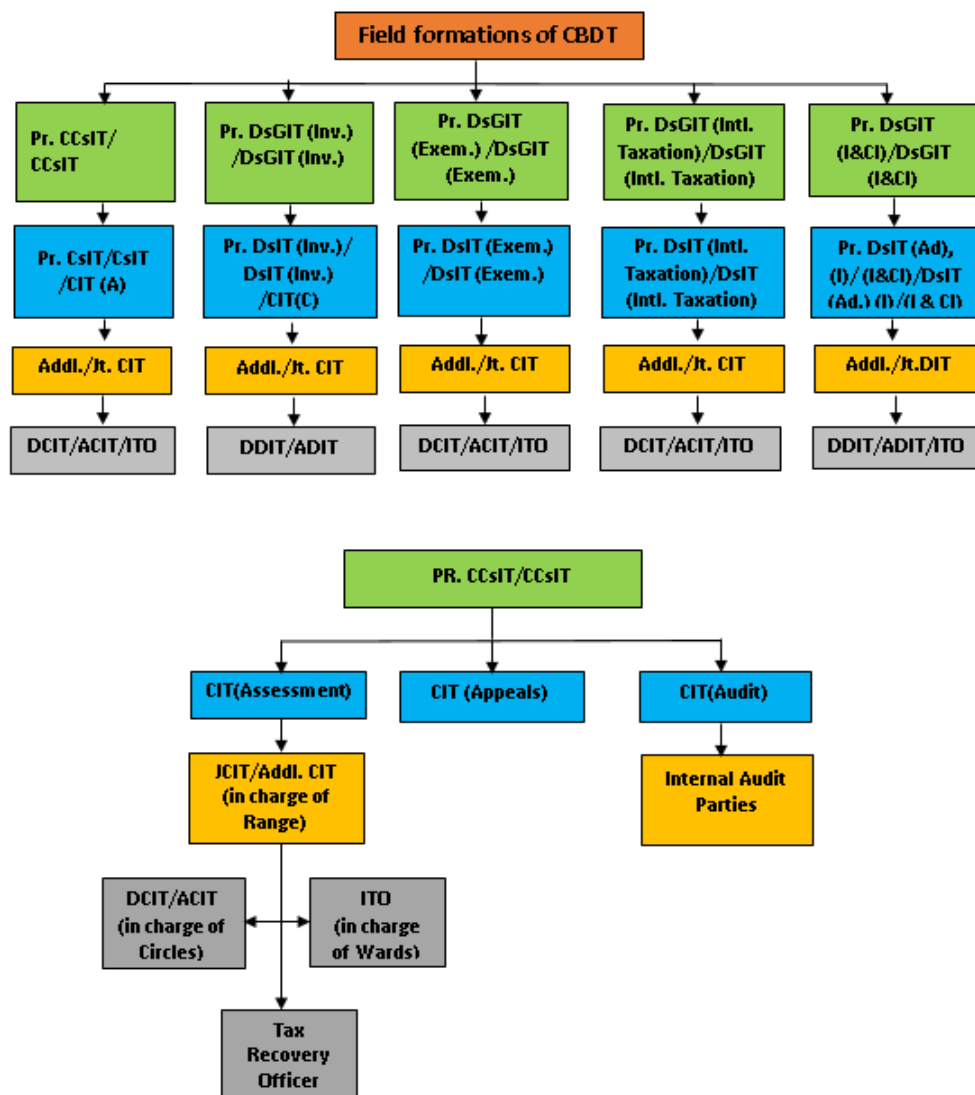
4 The figures do not include sanctioned strength of (i) EDP, (ii) OL (Official Language) Division, (iii) Reserves (iv) other posts and (v) posts allocated under central Pool (under Delhi CCA).

5 Pr. CCIT/Pr. DGIT, CCIT/DGIT, Pr. CIT/Pr. DIT, CIT/DIT, Addl. CIT/Addl. DIT/JCIT/JDIT, DCIT/DDIT/ACIT/ADIT and ITOs.

respectively. The revenue expenditure of the ITD for the year 2019-20 was ₹ 7,052 crore<sup>6</sup>.

The organizational structure of the CBDT is given in Chart 1.1 below:

**Chart 1.1: Organisational set up of field formation of CBDT**



### 1.3 Resources of the Union Government

**1.3.1** The Government of India’s resources include all revenues received by the Union Government, all loans raised by issue of treasury bills, internal and external loans and all moneys received by the Government in repayment of loans. Tax revenue resources of the Union Government consist of revenue receipts from direct and indirect taxes. Table 1.1 below shows the summary of resources of the Union Government for the financial year (FY) 2019-20 and FY 2018-19.

6 Union Finance Accounts for FY 2019-20.

| Table 1.1: Resources of the Union Government                   | ₹ in crore)      |                  |
|--|------------------|------------------|
|  | FY 2019-20       | FY 2018-19       |
| A. Total Revenue Receipts <sup>#</sup>                         | 25,98,761        | 25,67,917        |
| i. Direct Taxes Receipts                                       | 10,50,686        | 11,37,718        |
| ii. Indirect Taxes Receipts including other taxes <sup>7</sup> | 9,59,374         | 9,42,747         |
| iii. Non-Tax Receipts  | 5,88,328         | 4,86,389         |
| iv. Grants-in-aid & contributions                              | 373              | 1,063            |
| B. Miscellaneous Capital Receipts <sup>8</sup>                 | 50,349           | 94,979           |
| C. Recovery of Loans & Advances <sup>9</sup>                   | 18,647           | 30,257           |
| D. Public Debt Receipts <sup>10</sup>                          | 73,01,387        | 67,58,482        |
| Receipts of Government of India (A+B+C+D)                      | <b>99,69,144</b> | <b>94,51,635</b> |

Source: Union Finance Accounts of respective years.

Note: Direct tax receipts and Indirect Tax receipts including other taxes have been worked out from the Union Finance Accounts.

# Total Revenue Receipts include ₹ 6,50,677 crore in FY 2019-20 and ₹ 7,61,454 crore in FY 2018-19 directly assigned to states.

In FY 2019-20, increase in receipts of Government of India have mainly been contributed by increase in public debt receipts. Direct taxes accounted for 40.4 per cent of total revenue receipts in FY 2019-20, shrinking by 7.6 per cent over the last year's receipts.

**1.3.2** Table 1.2 below provides a snapshot of direct taxes administration.

| Table 1.2: Direct Taxes Administration |                                       |            |                    |           |                         |   |                      |                                     |
|--|---------------------------------------|------------|--------------------|-----------|-------------------------|---|----------------------|-------------------------------------|
| Financial Year                         | Direct Tax Collection<br>(₹ in crore) |            |                    |           | Refunds<br>(₹ in crore) | Actual Returns Filed by<br>(Number in lakh) |                      | Revenue expenditure<br>(₹ in crore) |
|  | Corporate Tax                         | Income Tax | Other Direct Taxes | Total     |                         | Non-corporate Assesseees                    | Corporate Assesseees |                                     |
| 2015-16                                | 4,53,228                              | 2,80,390   | 8,394              | 7,42,012  | 1,22,596                | 398.0                                       | 6.9                  | 4,689                               |
| 2016-17                                | 4,84,924                              | 3,40,592   | 24,285             | 8,49,801  | 1,62,582                | 436.9                                       | 7.1                  | 5,623                               |
| 2017-18                                | 5,71,202                              | 4,08,202   | 23,334             | 10,02,738 | 1,51,835                | 537.9                                       | 8.0                  | 6,172                               |
| 2018-19                                | 6,63,571                              | 4,61,652   | 12,495             | 11,37,718 | 1,61,037                | 619.8                                       | 8.5                  | 7,168                               |
| 2019-20                                | 5,56,876                              | 4,80,348   | 13,462             | 10,50,686 | 1,83,431                | 639.4                                       | 8.4                  | 7,052                               |

Source: Union Finance Accounts and Pr. CCA; CBDT

Despite decrease of 7.6 per cent in the direct tax collection in FY 2019-20 as compared to FY 2018-19, there was an increase of 13.9 per cent in refunds issued during FY 2019-20 as compared to FY 2018-19.

7 Indirect taxes levied on goods and services such as Customs Duty, Excise Duty, Service Tax, Central Goods and Services Tax, Integrated Goods and Services Tax etc.;

8 This comprises of value of bonus shares, disinvestment of public sector and other undertakings and other receipts;

9 Recovery of loans and advances made by the Union Government;

10 Borrowings by the Government of India internally as well as externally;

## 1.4 Direct Taxes – Trends and composition

**1.4.1** Table 1.3 below gives the relative growth of direct taxes (DT) with reference to Gross Tax Revenues<sup>11</sup> (GTR) and Gross Domestic Product (GDP) during FY 2015-16 to FY 2019-20.

| Table 1.3: Growth of Direct Taxes |           |           |             |                       |                       |
|-----------------------------------|-----------|-----------|-------------|-----------------------|-----------------------|
| Financial Year                    | DT        | GTR       | GDP         | DT as per cent of GTR | DT as per cent of GDP |
| (₹ in crore)                      |           |           |             |                       |                       |
| 2015-16                           | 7,42,012  | 14,55,891 | 1,35,76,086 | 51.0                  | 5.5                   |
| 2016-17                           | 8,49,801  | 17,15,968 | 1,51,83,709 | 49.5                  | 5.6                   |
| 2017-18                           | 10,02,738 | 19,19,183 | 1,67,73,145 | 52.2                  | 6.0                   |
| 2018-19                           | 11,37,718 | 20,80,465 | 1,90,10,164 | 54.7                  | 6.0                   |
| 2019-20                           | 10,50,686 | 20,10,060 | 2,03,39,849 | 52.3                  | 5.2                   |

Source: DT and GTR - Union Finance Accounts, GDP-Central Statistical Office (CSO), Ministry of Statistics and Programme Implementation; GDP for FY 2019-20 – Press note released by CSO on 31 May 2020.

**1.4.2** Though the DT decreased by 7.6 per cent in FY 2019-20 as compared to FY 2018-19, there was marginal decrease (2.4 per cent) in the share of DT to GTR in FY 2019-20 as compared to FY 2018-19. DT was 5.2 per cent of GDP during FY 2019-20 as compared to 6.0 per cent in FY 2017-18 and FY 2018-19.

**1.4.3** Table 1.4 below gives the growth of direct taxes and its major components i.e. Corporation Tax (CT) and Income Tax (IT) during FY 2015-16 to FY 2019-20.

| Table 1.4: Growth of direct taxes and its major components |              |                                    |                 |                                    |            |                                    |             |                                    |
|--|--------------|------------------------------------|-----------------|------------------------------------|------------|------------------------------------|-------------|------------------------------------|
| Financial Year   | Direct Taxes | Per cent growth over previous year | Corporation Tax | Per cent growth over previous year | Income Tax | Per cent growth over previous year | GDP         | Per cent growth over previous year |
| (₹ in crore)   |              |                                    |                 |                                    |            |                                    |             |                                    |
| 2015-16  | 7,42,012     | 6.6                                | 4,53,228        | 5.7                                | 2,80,390   | 8.5                                | 1,35,76,086 | 8.3                                |
| 2016-17  | 8,49,801     | 14.5                               | 4,84,924        | 7.0                                | 3,40,592   | 21.5                               | 1,51,83,709 | 11.8                               |
| 2017-18  | 10,02,738    | 18.0                               | 5,71,202        | 17.8                               | 4,08,202   | 19.9                               | 1,67,73,145 | 10.5                               |
| 2018-19  | 11,37,718    | 13.5                               | 6,63,572        | 16.2                               | 4,61,652   | 13.1                               | 1,90,10,164 | 13.3                               |
| 2019-20  | 10,50,686    | (-) 7.6                            | 5,56,876        | (-) 16.1                           | 4,80,348   | 4.0                                | 2,03,39,849 | 7.0                                |

Source: Union Finance Accounts

**1.4.4** There was a decrease of 16.1 per cent in Corporation Tax in FY 2019-20 as compared to an increase of 16.2 per cent in FY 2018-19, whereas Income Tax increased by 4.0 per cent in FY 2019-20 as compared to an increase of 13.1 per cent in FY 2018-19. By contrast, growth of GDP was 7.0 per cent.

**1.4.5** There are different stages of direct taxes collection such as Tax Deducted at Source (TDS), Advance Tax, Self-Assessment Tax (SAT) and Regular

<sup>11</sup> It includes all direct and indirect taxes.



Assessment Tax in respect of both Corporation and Income Tax. The pre-assessment collection through TDS, Advance Tax and Self-Assessment Tax is indicative of voluntary compliance in the system. The collection of tax through regular assessment stage occurs post assessment.

**1.4.6** Table 1.5 below shows the collection of Corporation and Income Tax under different stages during FY 2015-16 to FY 2019-20.

| Table 1.5: Collection of Corporation and Income Tax |          |             |                     |  |   |                        |                |                               |
|---|----------|-------------|---------------------|--|---|------------------------|----------------|-------------------------------|
| Financial Year                                      | TDS      | Advance Tax | Self-Assessment Tax | Pre-assessment collection (Col. 2+3+4) | Percentage of total pre-assessment collection | Regular Assessment Tax | Other receipts | Total Collection (Col. 5+7+8) |
| (₹ in crore)  |          |             |                     |  |   |                        |                |                               |
| 1.  | 2.       | 3.          | 4.                  | 5.                                     | 6.  | 7.                     | 8.             | 9.                            |
| 2015-16   | 2,87,412 | 3,52,899    | 54,860              | 6,95,171                               | 81.2  | 63,814                 | 96,940         | 8,55,925                      |
| 2016-17   | 3,43,144 | 4,06,769    | 68,160              | 8,18,073                               | 82.8  | 74,138                 | 95,887         | 9,88,098                      |
| 2017-18   | 3,80,641 | 4,70,242    | 83,219              | 9,34,102                               | 82.6  | 92,044                 | 1,05,093       | 11,31,239                     |
| 2018-19   | 4,50,769 | 5,27,529    | 84,174              | 10,62,471                              | 82.6  | 99,032                 | 1,24,757       | 12,86,260                     |
| 2019-20   | 4,80,383 | 4,67,315    | 85,099              | 10,32,797                              | 84.6  | 67,620                 | 1,20,233       | 12,20,650                     |

Source: Pr. CCA, CBDT.

Note: The other receipts include surcharge and cess. The figures of collection include refunds also. In FY 2019-20, there is a difference of ₹ 5.0 crore in collection of Income Tax as compared with the Union Finance Accounts.

**1.4.7** Table 1.5 above shows that the voluntary compliance by assessee (pre assessment stage) accounted for 84.6 per cent in FY 2019-20 against 81.2 per cent in FY 2015-16 of the total collections of Corporation and Income Tax, whereas collection through regular assessment (post assessment) which was 7.5 per cent of total collection in FY 2015-16 decreased to 5.5 per cent in FY 2019-20.

**1.4.8** Table 1.6 below gives the details of non-corporate assessee in different categories of income.

| Table 1.6: Non-Corporate Assessee |                 |                              |                              |                 |                 |        |
|-----------------------------------|-----------------|------------------------------|------------------------------|-----------------|-----------------|--------|
| Financial Year                    | A <sup>12</sup> | B <sub>1</sub> <sup>13</sup> | B <sub>2</sub> <sup>14</sup> | C <sup>15</sup> | D <sup>16</sup> | Total  |
| (Figures in lakh)                 |                 |                              |                              |                 |                 |        |
| 2015-16                           | 55.93           | 264.47                       | 52.94                        | 24.69           | 0.01            | 398.04 |
| 2016-17                           | 54.17           | 290.16                       | 61.85                        | 30.69           | 0.02            | 436.89 |
| 2017-18                           | 61.16           | 360.63                       | 79.04                        | 37.05           | 0.02            | 537.90 |
| 2018-19                           | 68.08           | 403.35                       | 103.36                       | 44.96           | 0.03            | 619.78 |
| 2019-20                           | 75.05           | 409.15                       | 104.53                       | 50.63           | 0.01            | 639.37 |

Source: CBDT; These figures are based on actual returns filed during the respective year.

12 Category 'A' assessee – Assessments with income/loss below ₹ two lakh;

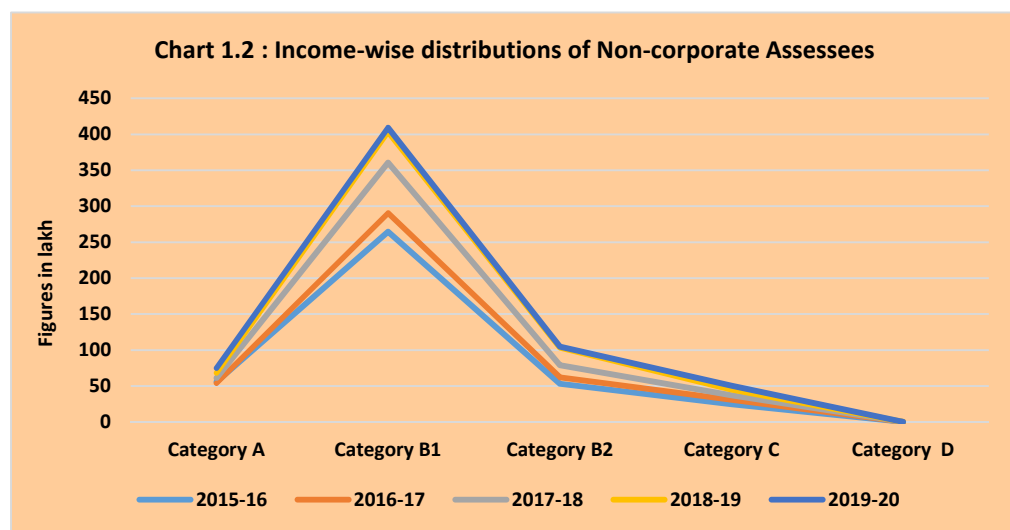
13 Category 'B<sub>1</sub>' assessee (lower income group) - Assessments with income/loss of ₹ two lakh and above; but below ₹ five lakh;

14 Category 'B<sub>2</sub>' assessee (higher income group) - Assessments with income/loss of ₹ five lakh and above; but below ₹ 10 lakh;

15 Category 'C' assessee - Assessments with income/loss of ₹ 10 lakh and above;

16 Category 'D' assessee – Search and seizure assessments;

The number of non-corporate assessees registered an increase of 3.16 per cent in FY 2019-20 in comparison to an increase of 15.2 per cent in FY 2018-19. As can be seen from the Table 1.6 above and Chart 1.2, there has been an increase of 10.2 per cent and 12.6 per cent in Category 'A' and Category 'C' respectively during FY 2019-20 in comparison to FY 2018-19. However, the increases in these categories were 11.3 per cent and 21.3 per cent during FY 2018-19 in comparison to the previous year. There was an increase of 60.6 per cent in non-corporate taxpayers during FY 2015-16 to FY 2019-20 whereas during the same period tax collection from non-corporate taxpayers increased by 71.3 per cent. Thus, growth in tax collection was more than the growth in non-corporate taxpayers.



1.4.9 Table 1.7 below gives details of Corporate Assessees belonging to the different categories of income.

| Financial Year | A <sup>17</sup> | B <sub>1</sub> <sup>18</sup> | B <sub>2</sub> <sup>19</sup> | C <sup>20</sup> | D <sup>21</sup>    | Total | Assessees having income above ₹ 25 lakh<br>(Figures in lakh) |
|----------------|-----------------|------------------------------|------------------------------|-----------------|--------------------|-------|--|
| 2015-16        | 3.08            | 1.59                         | 0.50                         | 1.71            | 0.00 <sup>^</sup>  | 6.88  | 0.76   |
| 2016-17        | 3.14            | 1.65                         | 0.53                         | 1.81            | 0.00 <sup>#</sup>  | 7.13  | 1.44   |
| 2017-18        | 3.57            | 1.85                         | 0.58                         | 1.99            | 0.00 <sup>\$</sup> | 7.99  | 1.31   |
| 2018-19        | 3.66            | 2.00                         | 0.61                         | 2.19            | 0.00 <sup>@</sup>  | 8.46  | 1.45   |
| 2019-20        | 3.48            | 2.00                         | 0.63                         | 2.27            | 0.00 <sup>*</sup>  | 8.38  | 1.52   |

Source: CBDT. These figures are based on actual returns filed during the respective year.

<sup>^</sup> 337 assesseees, <sup>#</sup> 134 assesseees, <sup>\$</sup> 195 assesseees, <sup>@</sup> 146 assesseees, <sup>\*</sup> 223 assesseees

17 Category 'A' assesseees – Assessment with income/loss below ₹ 50,000;

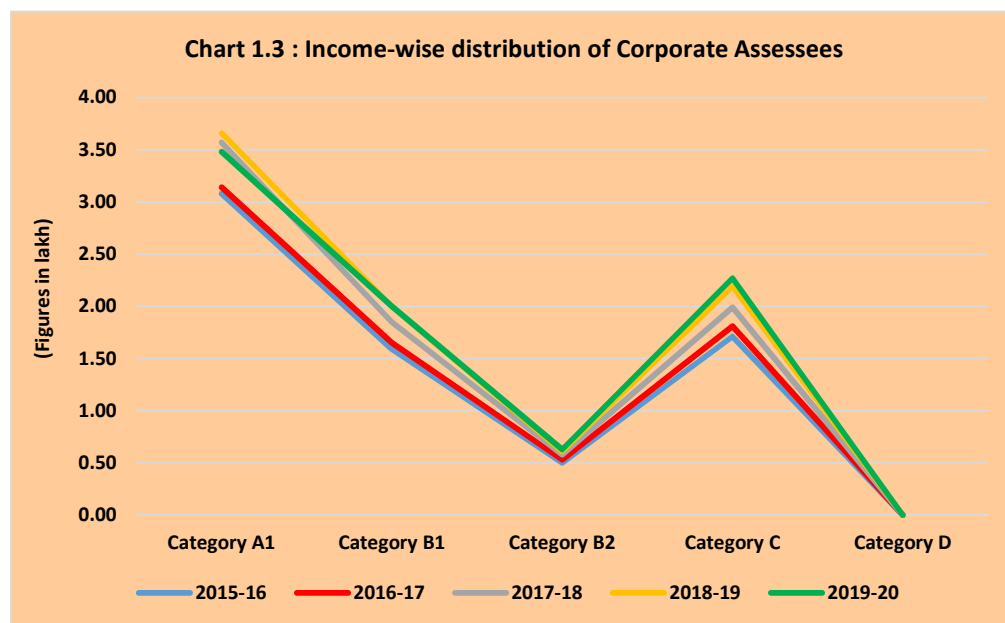
18 Category 'B<sub>1</sub>' assesseees (lower income group) – Assessment with income/loss of ₹ 50,000 and above; but below ₹ five lakh;

19 Category 'B<sub>2</sub>' assesseees (higher income group) - Assessment with income/loss above ₹ five lakh and above; but below ₹ 10 lakh;

20 Category 'C' assesseees - Assessment with income/loss of ₹ 10 lakh and above;

21 Category 'D' assesseees – Search and seizure assessment;

The number of corporate assesseees registered a decrease of 0.9 *per cent* in FY 2019-20 in comparison to an increase of 5.9 *per cent* in FY 2018-19. There was an increase of 21.8 *per cent* in corporate taxpayers during FY 2015-16 to FY 2019-20 whereas during the same period tax collection from corporate taxpayers increased by 22.9 *per cent*. Thus, growth in tax collection was more than the growth in corporate taxpayers.



### 1.5 Trend of refunds

When the amount of tax paid exceeds the amount of tax payable, the assesseees are entitled for a refund of the excess amount. The ITD releases this refund to the assesseees from time to time. Table 1.8 below shows the quarterly trend of refunds made and revenue collection in respect of Corporation Tax and Income Tax during FY 2016-17 to FY 2019-20.

| FY      | Quarter ending | Corporation Tax  |                 |  | Income Tax       |               |  |
|---------|----------------|------------------|-----------------|--|------------------|---------------|--|
|         |                | Gross collection | Refunds         | Percentage of refunds with reference to collection | Gross collection | Refunds       | Percentage of refunds with reference to collection |
| 2016-17 | June 2016      | 1,05,330         | 51,320          | 48.7   | 74,081           | 7,257         | 9.8  |
|         | September 2016 | 1,49,278         | 16,499          | 11.1   | 90,935           | 13,526        | 14.9   |
|         | December 2016  | 1,57,724         | 24,232          | 15.4   | 93,954           | 13,946        | 14.8   |
|         | March 2017     | 1,93,273         | 28,630          | 14.8   | 1,23,523         | 7,172         | 5.8  |
|         | <b>Total</b>   | <b>6,05,605</b>  | <b>1,20,681</b> | <b>19.9</b>  | <b>3,82,493</b>  | <b>41,901</b> | <b>11.0</b>  |
| 2017-18 | June 2017      | 1,11,789         | 44,530          | 39.8   | 87,685           | 11,269        | 12.9   |
|         | September 2017 | 1,56,759         | 16,113          | 10.3   | 99,112           | 7,682         | 7.8  |
|         | December 2017  | 1,84,392         | 17,180          | 9.3  | 1,09,388         | 14,915        | 13.6   |

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|         |                |                 |                 |             |                 |               |             |
|---------|----------------|-----------------|-----------------|-------------|-----------------|---------------|-------------|
|         | March 2018     | 2,27,400        | 31,315          | 13.8        | 1,54,714        | 8,831         | 5.7         |
|         | <b>Total</b>   | <b>6,80,340</b> | <b>1,09,138</b> | <b>16.0</b> | <b>4,50,899</b> | <b>42,697</b> | <b>9.5</b>  |
| 2018-19 | June 2018      | 1,27,468        | 61,078          | 47.9        | 98,049          | 12,834        | 13.1        |
|         | September 2018 | 1,90,200        | 12,848          | 6.8         | 1,27,210        | 16,823        | 13.2        |
|         | December 2018  | 1,94,177        | 10,468          | 5.4         | 1,21,069        | 16,503        | 13.6        |
|         | March 2019     | 2,57,554        | 21,434          | 8.3         | 1,70,533        | 9,049         | 5.3         |
|         | <b>Total</b>   | <b>7,69,399</b> | <b>1,05,828</b> | <b>13.8</b> | <b>5,16,861</b> | <b>55,209</b> | <b>10.7</b> |
| 2019-20 | June 2019      | 70,435          | 64,894          | 92.1        | 92,449          | 11,209        | 12.1        |
|         | September 2019 | 1,78,463        | 17,404          | 9.8         | 1,11,951        | 17,481        | 15.6        |
|         | December 2019  | 1,20,124        | 28,009          | 23.3        | 98,494          | 30,792        | 31.3        |
|         | March 2020     | 1,87,853        | 11,235          | 6.0         | 1,77,449        | 2,407         | 1.4         |
|         | <b>Total</b>   | <b>5,56,876</b> | <b>1,21,542</b> | <b>21.8</b> | <b>4,80,343</b> | <b>61,889</b> | <b>12.9</b> |

Source: Pr. CCA, CBDT

As can be seen from the Table 1.8 above, 48.7 per cent, 39.8 per cent, 47.9 per cent and 92.1 per cent of the gross collection of Corporation Tax during the first quarters of FY 2016-17, FY 2017-18, FY 2018-19 and FY 2019-20 respectively were refunded against the previous year's collection, during the same quarter. Further, 42.5 per cent, 40.8 per cent, 57.7 per cent and 53.4 per cent of the total refund amount of Corporation Tax pertaining to the previous year's collection was refunded during the first quarters of FY 2016-17, FY 2017-18, FY 2018-19 and FY 2019-20 respectively. It is also noticed that refunds as a percentage of gross collection are higher in case of Corporation Tax as compared to Income Tax.

### **1.6 Tax Administration Process**

Tax Administration Process in the Income Tax Department involves allotment of permanent account number (PAN); filing of income tax returns (ITRs); processing of ITRs; scrutiny of ITRs; rectification of mistakes; income escaping assessments; revision of assessment orders; appeal process; determination of refund; generation of demand; collection of taxes; penalty and prosecution etc. Table 1.9 below gives details of the processes involved in the Income Tax Department. Flow chart in *Appendix-1.1* shows these processes.

| Table 1.9 Tax Administration Process                  |   |
|---|---|
| Permanent Account Number (PAN)                        | Every person <sup>22</sup> who is required to file an Income Tax Return (ITR) under the provisions of section 139A of the Income Tax Act, 1961 (the Act) and has not been allotted a Permanent Account Number shall, within such time, as may be prescribed, apply to the ITD for allotment of a PAN.   |
| Return of income                                      | Under section 139 of the Act, every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to Income Tax, shall, furnish a return of his income or the income of such other person during the previous year, within the prescribed timeline and in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed. CBDT has prescribed different forms of ITR for different categories of assessees. Assesseees are required to file returns of income electronically {Rule 12(3) of the Income Tax Rules, 1962}.  |
| Summary processing {Section 143(1), 143(1A), 143(1B)} | <p>During Summary processing, ITRs are checked for arithmetical accuracy, internal consistency etc. Further, addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return is also made.</p> <p>The summary processing takes place with the available data in the ITR and without calling for records and information from the assessee. Thus, summary processing is non-intrusive in nature. After processing, if there is any demand due from the assessee, it is intimated through demand notices. In case of excess payment of tax, refunds are issued through the Refund Banker Scheme, except in some exceptional cases wherein refund is allowed in manual mode.</p>  |
| Scrutiny Assessment                                   | <p>The Income Tax Returns filed by the assessee are selected for detailed scrutiny through Computer Aided Scrutiny Selection (CASS). Some cases are also selected manually by the Assessing Officer as per CBDT guidelines. The Act provides for two types of regular scrutiny assessments: (a) Assessment under Section 143(3) which is framed after affording opportunity to the assessee and taking all relevant facts and responses of the assessee on record. (b) Assessment under Section 144 (Best Judgment Assessment) is framed when, despite notices, the assessee does not respond and forgoes the opportunities to file a response. In addition to the above, scrutiny block assessments are conducted in cases of search cases (section 153A/153C).</p> <p>In scrutiny assessment, the Assessing Officer (AO) retrieves all records and information related to the assessee available with the ITD and additionally calls for record and Information from the assessee to satisfy himself that no income has been unaccounted and tax has been computed correctly. The Act prescribes time lines for issue of notices and completion of assessment proceedings. The AO finalises the assessment proceedings.</p> |
| Rectification of mistake                              | The Act also provide for subsequent rectification of assessment orders <i>suo-moto</i> or on the request of the assessee (section 154).   |

22 Company, Firm, Individual, HUF, Trusts, Association of Persons, Body of Individuals, Co-operative Societies, Local Authority, Artificial Juridical Person, Government Agency.

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|   |  |
|---|--|
| Income escaping assessment                        | If the AO has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may assess or reassess such income and also any other income chargeable to tax which comes to his notice subsequently in the course of the reassessment subject to the provisions of the Act (section 147).   |
| Revision of orders                                | The Principal Commissioner of Income Tax may revise an assessment order under section 263/264 if he considers any order passed by the AO is erroneous, subject to provisions of the Act.   |
| Tax Deduction and Collection Account Number (TAN) | TAN or Tax Deduction and Collection Account Number is a 10-digit alpha numeric number required to be obtained under section 203(A) of the Act, by all persons who are responsible for deducting or collecting tax.   |
| Pre-assessment Collection                         | Every assessee is legally expected to assess his Income Tax liabilities and pay Advance Tax (section 207) and Self-Assessment Tax (section 140A), subject to provisions of the Act. The law also requires certain paying authorities in the public and private sectors (TDS deductors) to deduct a certain percentage of payment made to individuals or corporate etc. and deposit the same in the Government's account. Another way of collecting tax is through designated authorities called Tax Collected at Source (TCS) authorities who collect tax from certain individuals/ corporate getting certain contracts/lease rights from public authorities. The collection of Income Tax through these four mechanisms - Advance Tax, Self-Assessment Tax, TDS and TCS is called pre-assessment mode of tax collections. |
| Appeal Process                                    | An aggrieved assessee can appeal to the Commissioner of Income Tax (Appeals) against the order of an AO, who shall comply with the directions given in the appellate order. Further, appeal is also permitted to be made on questions of fact and law to the Income Tax Appellate Tribunal against the orders passed by appellate authorities. An appeal can be preferred to the High Court under section 260A if any issue has not been considered or wrongly considered by the Appellate Tribunal and also to the Supreme Court under section 261 in any case which the High Court certifies to be a fit one for appeal thereto.   |
| Refund  | Where the amount of tax paid exceeds the amount of tax payable, the assessee is entitled to a refund of the excess amount. Simple interest at the prescribed rate is payable on the amount of such refund. Refund is also admissible alongwith interest, as a result of any order passed in appeal or other proceedings.   |
| Recovery of tax arrears                           | On receipt of demand from the AO, the assessee is required to pay within 30 days or any other time limit prescribed by the AO. If the recovery is not affected within a year of raising the demand, the AO is required to send the details of arrear cases to the Tax Recovery Officer (TRO) for drawing up of Tax Recovery Certificates (TRC) after ensuring that all possible measures have been taken for recovery of demand.   |
| Penalty and Prosecution                           | In order to ensure compliance of the provisions of the Act and to have a deterrent effect for violations, the Act provides for exhaustive procedures for the imposition of penalty and initiation of prosecution. The levy of many penal provisions is discretionary in nature and can be waived off by the competent authority.   |

## 1.7 Budgeting of Direct Taxation

**1.7.1** The Budget reflects the Government's vision and intent. The Revenue Budget consists of the revenue receipts of the Government (tax revenues and other revenues). Comparison of Budget Estimates with the corresponding actuals is an indicator of the quality of fiscal management. Actuals may differ from the estimates because of unanticipated and random external events or methodological inadequacies or unrealistic assumptions about critical parameters.

**1.7.2** Table 1.10 below shows the details of Budget Estimates (BE), Revised Estimates (RE) and Actual collection of direct taxes during FY 2015-16 to FY 2019-20.

| Table 1.10: Budget Estimates, Revised Estimates vis-à-vis Actual collection of direct taxes |                  |                   |           |                               |                                |  |   |
|---|------------------|-------------------|-----------|-------------------------------|--------------------------------|--|---|
| Financial Year  | Budget estimates | Revised estimates | Actual    | Actual minus budget estimates | Actual minus Revised estimates | Difference as per cent of budget estimates | Difference as per cent of Revised estimates |
|   |                  |                   |           |                               |                                |  | (₹ in crore)                                |
| 2015-16   | 7,97,995         | 7,52,021          | 7,42,012  | (-) 55,983                    | (-) 10,009                     | (-) 7.0                                    | (-) 1.3                                     |
| 2016-17   | 8,47,097         | 8,47,097          | 8,49,801  | 2,704                         | 2,704                          | 0.3  | 0.3   |
| 2017-18   | 9,80,000         | 10,05,000         | 10,02,738 | 22,738                        | (-) 2,262                      | 2.3  | (-) 0.2                                     |
| 2018-19   | 11,50,000        | 12,00,000         | 11,37,718 | (-) 12,282                    | (-) 62,282                     | (-) 1.1                                    | (-) 5.2                                     |
| 2019-20   | 13,35,000        | 11,70,000         | 10,50,686 | (-) 2,84,314                  | (-) 1,19,314                   | (-) 21.3                                   | (-) 10.2                                    |

Source: BE and RE figures are as per respective Receipt Budget and Actual are as per respective Finance Accounts

**1.7.3** The variation between RE and actual collection ranged from (-) 10.2 per cent to 0.3 per cent of RE during the period from FY 2015-16 to FY 2019-20. The variation between the RE and actual is higher in the FY 2019-20 as compared to FYs 2015-16 to 2018-19.

## 1.8 Revenue impact of tax incentives

**1.8.1** The primary objective of any tax law and its administration is to raise revenues for the purpose of funding government expenditure. The revenues raised are primarily dependent upon the tax base and effective tax rate. The determinant of these two factors is a range of measures which includes special tax rates, exemptions, deductions, rebates, deferrals and credits. These measures are collectively called as "tax incentives or tax preferences". These are also referred to as tax expenditure.

**1.8.2** The Income Tax Act, 1961 (the Act), *inter alia*, provides for tax incentives to promote exports, balanced regional development, creation of infrastructure facilities, employment, rural development, scientific research and development, growth of the cooperative sector and encourages savings

by individuals and donations for charity. Most of these tax benefits can be availed of by both corporate and non-corporate taxpayers.

**1.8.3** The Union Receipt Budget depicts a statement of revenue impact of major incentives on corporate taxpayers and non-corporate taxpayers based on returns filed electronically. Table 1.11 below shows the revenue impact of major tax incentives for FY 2015-16 to FY 2019-20.

| Table 1.11: Revenue Impact of Tax Incentives |  |                                      |              |                    |
|--|--|--------------------------------------|--------------|--------------------|
| Financial Year                               | Total Revenue impact of tax incentives | Revenue impact as <i>per cent</i> of |              |                    |
|  |  | GDP                                  | Direct Taxes | Gross Tax Receipts |
| (₹ in crore)                                 |  |                                      |              |                    |
| 2015-16                                      | 1,38,658                               | 1.0                                  | 18.7         | 9.5                |
| 2016-17                                      | 1,55,840                               | 1.0                                  | 18.3         | 9.1                |
| 2017-18                                      | 1,83,580                               | 1.1                                  | 18.3         | 9.6                |
| 2018-19                                      | 2,06,113                               | 1.1                                  | 18.1         | 9.9                |
| 2019-20                                      | 2,30,415                               | 1.2                                  | 21.9         | 11.4               |

Source: Respective Receipt Budget.

Note: The figures of revenue impact of tax incentives are actuals except for FY 2019-20 (projected). These do not cover Charitable Institutions. However, the amount applied by Charitable Institutions was ₹ 5,29,126 crore in respect of 1,98,806 electronically filed returns till 30 November 2019.

As reported in the Receipts Budget for the FY 2020-21, the effective rate of Corporation Tax for FY 2018-19 was 27.8 *per cent*, as against the average statutory rate of 34.6 *per cent*.

**1.8.4** The major tax incentives given to corporate and non-corporate assessees in FY 2019-20 were deductions on account of certain investments and payments under section 80C (₹ 71,965 crore), accelerated depreciation under section 32 (₹ 56,586 crore), deduction of export profits to SEZ units under section 10AA (₹ 24,301 crore), deductions to undertakings in generation/transmission and distribution of power under section 80-IA (₹ 14,468 crore) and deductions under sections 35(1), (2AA) and (2AB) for expenditure on scientific research (₹ 8,319 crore). The Effective Tax Rate (ETR) for companies<sup>23</sup> was 27.81 *per cent* in FY 2018-19 (29.49 *per cent* in FY 2017-18), as against the average statutory rate of 34.58 *per cent*.

**1.8.5** The revenue impact of tax incentives has increased by 66.2 *per cent* from ₹ 1,38,658 crore in FY 2015-16 to ₹ 2,30,415 crore in FY 2019-20. Though the tax incentives increased in absolute terms by 11.8 *per cent* in FY 2019-20 as compared to FY 2018-19, increase in the share of revenue impact of tax incentives in DT and GTR was 3.8 *per cent* and 1.5 *per cent* respectively. Revenue impact of tax incentives was 1.2 *per cent* of GDP during FY 2019-20 as compared to 1.1 *per cent* in FY 2018-19 and FY 2017-18.

23 Source: Receipts Budget 2021-22



## 1.9 Tax debt – Uncollected demand

1.9.1 Table 1.12 below gives the trend of arrears of demand pending during the period FY 2015-16 to FY 2019-20.

| Table 1.12: Arrears of Demand |                                  |                                  |                         |  |   |                        |
|-------------------------------|----------------------------------|----------------------------------|-------------------------|--|---|------------------------|
| Financial Year                | Arrears of earlier year's demand | Arrears of current year's demand | Total arrears of demand | Demand difficult to recover <sup>#</sup> | Demand difficult to recover (in Per cent) | Net collectible demand |
|                               |                                  |                                  |                         |  |   | (₹ in crore)           |
| 2015-16                       | 6,67,855                         | 1,56,356                         | 8,24,211                | 8,02,256                                 | 97.34                                     | 21,955                 |
| 2016-17                       | 7,33,229                         | 3,11,459                         | 10,44,688               | 10,29,725                                | 98.57                                     | 14,963                 |
| 2017-18                       | 7,36,975                         | 3,77,207                         | 11,14,182               | 10,94,023                                | 98.19                                     | 20,159                 |
| 2018-19                       | 9,46,190                         | 2,87,888                         | 12,34,078               | 12,19,485                                | 98.82                                     | 14,593                 |
| 2019-20                       | 11,25,314                        | 4,93,640                         | 16,18,954               | 15,80,220                                | 97.61                                     | 38,734                 |

Source: Directorate of Income Tax (Organisation & Management Services), Demand & Collection report (CAP-1) for the month of March of the respective FY. <sup>#</sup> This includes current year demand also.

1.9.2 Though total arrears of demand in FY 2019-20 amounted to ₹ 16,18,954 crore, increasing by 31.2 per cent as compared to FY 2018-19 (₹ 12,34,078 crore), however, demands classified as 'difficult to recover' decreased marginally to 97.6 per cent of the total arrears of demands in FY 2019-20 as compared to 98.8 per cent in FY 2018-19 due to an increase in net collectible demand. Audit noted that the Demand & Collection Report prepared by the Income Tax Department for the month of March of the respective FYs has analysed various factors viz. no assets/inadequate assets for recovery, cases under liquidation/BIFR, assessee not traceable, demand stayed by Courts/ITAT/IT authorities, TDS/prepaid taxes mismatch etc. leading to an estimation of the demands difficult to recover. Further, Audit noted that the demand categorized as "difficult to recover" by the ITD appeared to include the majority of the arrears of current year's demand.

## 1.10 Litigation Management

1.10.1 Table 1.13 below gives the trend of disposal and pendency of appeal cases before CIT(Appeals) during FY 2015-16 to FY 2019-20.

| Table 1.13: Disposal of Appeal Cases by CIT(A) |                               |                          |                      |                        |                                  |
|--|-------------------------------|--------------------------|----------------------|------------------------|----------------------------------|
| Financial Year                                 | Appeal cases due for disposal | Appeal cases disposed of | Appeal cases pending | Pendency in percentage | Amount locked up in Appeal cases |
|  |                               |                          |                      |                        | (₹ in crore)                     |
|  |                               |                          |                      |                        | (Number in lakh)                 |
| 2015-16  | 3.53                          | 0.94                     | 2.59                 | 73.3                   | 5,16,250                         |
| 2016-17  | 4.08                          | 1.18                     | 2.90                 | 71.1                   | 6,11,227                         |
| 2017-18  | 4.25                          | 1.21                     | 3.04                 | 71.7                   | 5,18,647                         |
| 2018-19  | 4.62                          | 1.23                     | 3.39                 | 73.4                   | 5,62,806                         |
| 2019-20  | 5.57                          | 0.99                     | 4.58                 | 82.2                   | 8,83,331                         |

Source: CBDT

**1.10.2** The amount locked up in appeal cases with CIT (Appeals) is more than the revenue deficit of the Government of India in FY 2019-20.

**1.10.3** Table 1.14 below gives the position of appeal cases pending with the Income Tax Appellate Tribunals (ITATs)/High Courts and Supreme Court during FY 2015-16 to FY 2019-20.

| Table 1.14: Appeals pending with ITATs/High Courts/Supreme Court |              |                 |             |          |               |                     |          |          |
|--|--------------|-----------------|-------------|----------|---------------|---------------------|----------|----------|
| Financial Year   | ITATs        |                 | High Courts |          | Supreme Court |                     | Total    |          |
|  | No.          | Amt.            | No.         | Amt.     | No.           | Amt.                | No.      | Amt.     |
|  | (₹ in crore) |                 |             |          |               |                     |          |          |
| 2015-16  | 32,834       | 1,35,984        | 32,138      | 1,61,418 | 5,399         | 7,092               | 70,371   | 3,04,494 |
| 2016-17  | 37,968       | 1,43,771        | 38,481      | 2,87,818 | 6,375         | 8,048               | 82,806   | 4,39,637 |
| 2017-18  | 37,353       | 2,34,999        | 39,066      | 1,96,053 | 6,224         | 11,773              | 82,643   | 4,42,825 |
| 2018-19  | 92,205       | NA <sup>@</sup> | 38,539      | 1,36,465 | 4,425         | 74,368 <sup>#</sup> | 1,35,169 | 2,10,833 |
| 2019-20  | 88,016       | NA <sup>@</sup> | 31,745      | 3,09,237 | 4,526         | NA <sup>@</sup>     | 1,24,287 | 3,09,237 |

Source: CBDT;

<sup>@</sup> amount in respect of appeals filed in ITATs and the Supreme Court by the Department as well as assesseees are not available.

<sup>#</sup> amount in respect of appeals filed in the Supreme Court by the assesseees not available

**1.10.4** The CBDT vide their circular no. 17 of 2019 dated 8 August 2019 raised the monetary limit for filing appeals by the Department before ITAT, High Court and Supreme Court from ₹ 20 lakh to ₹ 50 lakh, ₹ 50 lakh to ₹ one crore and ₹ one crore to ₹ two crore respectively, the number of pending cases decreased marginally by 8.1 per cent i.e. from 1.35 lakh cases in FY 2018-19 to 1.24 lakh in FY 2019-20.

## 1.11 Tax Evasion

**1.11.1** Search and Seizure<sup>24</sup> and Survey<sup>25</sup> are amongst the main evidence collecting mechanisms which are used in cases where credible information about tax evasion is in possession of the ITD. Table 1.15 below shows the details of search and seizure operations and surveys conducted and the undisclosed income admitted/detected during FY 2015-16 to FY 2019-20.

| Table 1.15: Status of Search and Seizure and Survey cases |                           |   |                             |  |
|---|---------------------------|---|-----------------------------|--|
| Financial Year  | Number of groups searched | Undisclosed income admitted (in search & seizure) | Number of surveys conducted | Undisclosed income detected (in surveys) |
|   | (₹ in crore)              |   |                             |  |
| 2015-16   | 447                       | 11,226  | 4,428                       | 9,700                                    |
| 2016-17   | 1,152                     | 15,497  | 12,526                      | 13,716                                   |
| 2017-18   | 577                       | 15,913  | 13,487                      | 9,634                                    |
| 2018-19   | 983                       | 18,594  | 15,401                      | 16,126                                   |
| 2019-20   | 984*                      | 10,370*   | 12,720                      | 22,244                                   |

Source: Investigation Wing, CBDT; \* provisional

<sup>24</sup> Search and Seizure is carried out under section 132 of the Act to unearth any undisclosed income or valuables.

<sup>25</sup> Survey is carried out under section 133A and 133B of the Act for collecting any information, which may be useful for ITD in deterring tax evasion.

**1.11.2** During FY 2019-20, undisclosed income admitted during search & seizure decreased by 44.2 *per cent* and undisclosed income detected during survey increased by 37.9 *per cent* as compared to the respective figures in FY 2018-19.

## 1.12 Effectiveness of Internal Audit

**1.12.1** Internal Audit is an important part of the Departmental control that provides assurance that demands/refunds are processed accurately by the correct application of the provisions of the Act. The Internal Audit of ITD completed audit of 1,62,509 cases in FY 2019-20 as against 1,62,467 cases audited in FY 2018-19.

**1.12.2** Table 1.16 below shows details of Internal Audit observations raised, settled and pending for the period of the five years from FY 2015-16 to FY 2019-20.

| Table 1.16: Details of Internal Audit observations |                              |        |          |        |         |        |         |        |
|--|------------------------------|--------|----------|--------|---------|--------|---------|--------|
| Financial Year                                     | Opening balance <sup>^</sup> |        | Addition |        | Settled |        | Pending |        |
|  | Cases                        | Amount | Cases    | Amount | Cases   | Amount | Cases   | Amount |
|  | (₹ in crore)                 |        |          |        |         |        |         |        |
| 2015-16  | 19,137                       | 8,023  | 13,148   | 6,463  | 12,891  | 2,205  | 9,394   | 12,281 |
| 2016-17  | 19,405                       | 12,283 | 12,972   | 2,451  | 11,256  | 3,352  | 21,121  | 11,382 |
| 2017-18  | 21,129                       | 11,295 | 13,297   | 2,562  | 9,062   | 1,283  | 25,364  | 12,575 |
| 2018-19  | 25,408                       | 12,602 | 16,975   | 3,147  | 11,847  | 4,334  | 30,536  | 11,415 |
| 2019-20  | 31,024                       | 11,388 | 14,887   | 4,088  | 10,084  | 1,206  | 35,827  | 14,270 |

Source: Directorate of Income Tax (Income Tax & Audit); <sup>^</sup>Figures revised after verification by respective CsIT (Audit) subsequent to submission of quarterly statement for the quarter ending March

**1.12.3** Out of 9,164 major finding cases<sup>26</sup> raised by Internal Audit, the Assessing Officers (AOs) acted upon only in 1,469 cases (16.0 *per cent*) in FY 2019-20 in comparison to 1,923 cases (24.6 *per cent*) out of 7,818 cases in FY 2018-19. Follow up of the internal audit observations by the AOs need to be improved.

26 The monetary limit of major Internal Audit objections has been raised from ₹ Two lakh to ₹ 10 lakh as per instruction no. 6 of 2017 dated 21.7.2017.



## Chapter II: Audit Mandate, Products and Impact

### 2.1 Authority of the CAG for audit of receipts

Article 149 of the Constitution of India provides that the Comptroller and Auditor General of India (CAG) shall exercise such powers and perform such duties in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament. Parliament passed the Comptroller and Auditor General's DPC Act (CAG's DPC Act) in 1971. Section 16 of the CAG's DPC Act, authorises the CAG to audit all receipts (both revenue and capital) of the Government of India and of Governments of each State and Union Territory having a legislative assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. Regulations on Audit & Accounts, 2007 (Regulations) lay down the principles for Receipt Audit.

### 2.2 Examination of systems and procedures and their efficacy

**2.2.1** Audit of receipts includes an examination of the systems and procedures and their efficacy mainly in respect of:

- a. identification of potential tax assesseees, ensuring compliance with laws as well as detection and prevention of tax evasion;
- b. exercise of discretionary powers in an appropriate manner including levy of penalties and initiation of prosecution;
- c. appropriate action to safeguard the interests of the Government on the orders passed by departmental appellate authorities;
- d. any measures introduced to strengthen or improve revenue administration;
- e. amounts that may have fallen into arrears, maintenance of records of arrears and action taken for the recovery of the arrears;
- f. pursuit of claims with due diligence and to ensure that these are not abandoned or reduced, except with adequate justification and proper authority.

**2.2.2** To achieve the above, we examined the assessments completed by the Income Tax Department (the ITD) in the financial year 2018-19. In addition, some assessments which were completed in earlier years were also taken up for examination.

**2.2.3** The ITD undertakes scrutiny assessments in respect of a sample of returns filed by the assessee as per the Income Tax Act, 1961. The income tax returns (ITRs) are selected for scrutiny through Computer Aided Scrutiny Selection (CASS) on the basis of parameters identified and pre-defined by the ITD. These cases are then closely examined in respect of claims of deductions, losses, exemptions etc. to arrive at the correct assessments to ensure that there is no evasion of taxes. The assessee is given the opportunity to substantiate his claim with evidence, failing which the assessing officer (AO) makes the assessment as deemed appropriate. The work of processing, completion and rectification of assessment order in respect of scrutiny cases is done by the AO in the Assessment Information System (AST)/Income Tax Business Application (ITBA) module. AST/ITBA undertakes calculation of tax, calculation of interest under various sections of the Act, time barring checks etc. In the case of scrutiny assessments, rectification, appeal effect orders, figures are data-fed to the system by the AOs based on the orders. The payments made by the assessee in respect of TDS/TCS and advance tax etc. are auto populated from Form 26AS and OLTAS application respectively.

**2.2.4 Incidence of errors in assessment**

We audited 1,888 out of a total of 6,249 assessment units of the ITD during FY 2019-20 and issued 16,193 audit observations (Inspection Report level audit paragraphs). On further analysis, we observed that around 6.14 *per cent* of scrutiny cases, which we examined, had errors. Interestingly, we found mistakes in 805 assessments which Internal Audit had already checked. Table 2.1 below gives the details while *Appendix-2.1* gives the details field audit office wise.

| Table 2.1 Analysis of Incidence of errors in assessment checked by audit during 2019-20 |   |   |  |   |
|---|---|---|--|---|
| Total no. of assessments completed in units selected for audit                          | Total no. of assessments checked in audit | Total no. of audit observations raised in audit | No. of cases which Internal Audit had already examined | Audit observation raised after audit of cases by IAP ( <i>in per cent</i> ) |
| 3,47,937  | 2,63,340                                  | 16,193  | 805  | 4.97  |

Source: MIS and CAG's SAI System and its interface with the ITD's ITBA.

**2.3 Analysis of Draft Audit Paragraphs**

We issue significant and high value cases noticed in audit to the Ministry for comments before inclusion in the Audit Report as per provisions of Regulations 205 to 209. We give a time frame of six weeks to the Ministry to offer their comments on cases issued to them before their inclusion in the Audit Report.

We have included 577<sup>27</sup> high value cases involving a tax effect of ₹ 12,893.13 crore in Chapters III and IV of this Report. Table 2.2 shows category wise details of these cases and sub-category-wise details are given in Appendix-2.2. Chapters III and IV bring out details of errors in assessments in respect of Corporation Tax and Income Tax respectively.

| Table 2.2: Category-wise details of errors of high value cases |            |                  |                         |               |            |                  |
|--|------------|------------------|-------------------------|---------------|------------|------------------|
| Category   | CT         |                  | IT                      |               | Total      |                  |
|  | No.        | Tax Effect       | No.                     | Tax Effect    | No.        | Tax Effect       |
| (₹ in crore)   |            |                  |                         |               |            |                  |
| a. Quality of assessments                                      | 134        | 818.92           | 166                     | 325.66        | 300        | 1,144.58         |
| b. Administration of tax concessions/exemptions/ deductions    | 157        | 2,938.67         | 18                      | 33.45         | 175        | 2,972.12         |
| c. Income escaping assessments due to errors                   | 51         | 8,606.78         | 29                      | 32.61         | 80         | 8,639.39         |
| d. Overcharge of tax/interest                                  | 14         | 112.16           | 09                      | 24.88         | 23         | 137.04           |
| <b>Total</b>   | <b>356</b> | <b>12,476.53</b> | <b>222<sup>28</sup></b> | <b>416.60</b> | <b>578</b> | <b>12,893.13</b> |

### 2.3.1 Quality of Assessments – Excess or irregular refunds/interest on refunds

We noticed irregularities emanating from excess or irregular refunds or interest on refunds caused by computing errors, not considering the refund already issued/adjusted, excess computation of interest on refund, etc. Errors noticed in this category during FY 2016-17 to FY 2018-19 as brought out in the Compliance Audit Reports of the past three years along with findings of the current year Audit Report (2019-20) are summarised in Table 2.3 below.

| Table 2.3: Excess or irregular refunds/interest on refunds |                                 |            |                 |            |                 |            |               | (₹ in crore) |  |
|--|---------------------------------|------------|-----------------|------------|-----------------|------------|---------------|--------------|--|
| Assessment   | Audit Report for the year ended |            |                 |            |                 |            |               |              |  |
|  | March 2017                      |            | March 2018      |            | March 2019      |            | March 2020    |              |  |
|  | No. of errors                   | Tax Effect | No. of errors   | Tax Effect | No. of errors   | Tax Effect | No. of errors | Tax Effect   |  |
| CT   | 6 <sup>29</sup>                 | 50.35      | 4 <sup>30</sup> | 30.98      | 5 <sup>31</sup> | 1114.29    | 6             | 24.08        |  |

During FY 2019-20, these irregularities were highest (where ever 'highest' is mentioned, it is only with reference to the total tax effect and not in relation

27 One DP is having observation on both under assessment and over assessment for two AYs, hence considered as two cases in other places of the Report.

28 221 IT cases issued to Ministry. One DP is having observation on both under assessment and over assessment for two AYs, hence considered two cases. Thus, total count is 222.

29 Karnataka and Maharashtra

30 Maharashtra.

31 Karnataka and Maharashtra

to the number of cases) in Pr. CCIT-Karnataka (56 per cent) and Pr. CCIT-Mumbai (32.2 per cent).

### 2.3.2 Administration of tax concessions/exemptions/deductions– Irregularities in allowing depreciation/business losses/capital losses etc.

We noticed irregularities related to incorrect allowance and set-off of business losses, capital losses and unabsorbed depreciation, incorrect allowance of depreciation etc. The nature of such irregularities included:

- (i) incorrect allowance of set-off of brought forward business losses and unabsorbed depreciation where no loss in respect of earlier assessment years (AYs) was available,
- (ii) adoption of incorrect figures viz. earlier years' business loss adopted as returned loss in current AY,
- (iii) incorrect allowance of carry forward of business loss although ITR for the said AY was filed after due date of filing of return, and
- (iv) double deduction on account of depreciation etc.

Such irregularities occurred due to non-correlation of assessment records which indicates failure of the AOs in applying due diligence and to comply with the law. Irregularities noticed in allowance of depreciation/business losses/capital losses etc. during FY 2016-17 to FY 2018-19, as brought out in the Compliance Audit Reports of the past three years along with findings of the current year Audit Report (2019-20) are summarised in Table 2.4 below.

| Assessment   | Audit Report for the year ended |            |                  |            |                  |            |               |            |
|--------------|---------------------------------|------------|------------------|------------|------------------|------------|---------------|------------|
|              | March 2017                      |            | March 2018       |            | March 2019       |            | March 2020    |            |
|              | No. of errors                   | Tax Effect | No. of errors    | Tax Effect | No. of errors    | Tax Effect | No. of errors | Tax Effect |
| (₹ in crore) |                                 |            |                  |            |                  |            |               |            |
| CT           | 81 <sup>32</sup>                | 1,144.10   | 66 <sup>33</sup> | 1,796.86   | 75 <sup>34</sup> | 2,655.15   | 87            | 1,017.28   |
| IT           | 9 <sup>35</sup>                 | 24.41      | 7 <sup>36</sup>  | 9.19       | 14 <sup>37</sup> | 21.29      | 11            | 27.83      |

32 Andhra Pradesh & Telangana, Delhi, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal

33 Andhra Pradesh & Telangana, Assam, Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, UT Chandigarh, Uttar Pradesh and West Bengal

34 Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Madhya Pradesh, Karnataka & Goa, Kerala, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal

35 Bihar, Jharkhand, Rajasthan, Kerala, Odisha and Maharashtra

36 Bihar, Delhi, Rajasthan, Maharashtra and West Bengal.

37 Andhra Pradesh & Telangana, Bihar, Delhi, Madhya Pradesh, Kerala, Maharashtra, Rajasthan, Punjab, Jharkhand and West Bengal



In respect of Corporation Tax, these were highest in Pr. CCIT-Karnataka (30.3 per cent) and Pr. CCIT-Mumbai (26.19 per cent) during FY 2019-20.

In respect of Income Tax, these irregularities were highest in Pr. CCIT, Karnataka (44.25 per cent) during FY 2019-20.

### 2.3.3 Administration of tax concessions/exemptions/deductions - Incorrect allowance of business expenditure

We noticed irregularities related to incorrect allowance of ineligible claims of business expenditure viz. capital expenditure, unpaid claims and provisions deemed as unascertained liability etc. Errors in incorrect allowance of expenditure noticed during FY 2016-17 to FY 2018-19, as brought out in the Compliance Audit Reports of the past three years along with findings of the current year Audit Report (2019-20) are summarised in Table 2.5 below.

| Table 2.5: Errors noticed in allowance of business expenditure |                                 |            |                  |            |                  |            |               |            |  |              |
|--|---------------------------------|------------|------------------|------------|------------------|------------|---------------|------------|--|--------------|
| Assessment   | Audit Report for the year ended |            |                  |            |                  |            |               |            |  |              |
|  | March 2017                      |            | March 2018       |            | March 2019       |            | March 2020    |            |  |              |
|  |                                 |            |                  |            |                  |            |               |            |  | (₹ in crore) |
|  | No. of errors                   | Tax Effect | No. of errors    | Tax Effect | No. of errors    | Tax Effect | No. of errors | Tax Effect |  |              |
| CT   | 50 <sup>38</sup>                | 478.67     | 48 <sup>39</sup> | 875.47     | 49 <sup>40</sup> | 764.39     | 40            | 187.75     |  |              |

During FY 2019-20, irregularities on this account were highest in Pr. CCIT-Andhra Pradesh (32.3 per cent) and Pr. CCIT-Delhi (20.3 per cent).

### 2.3.4 Income escaping assessment due to errors – Irregularities under special provisions including MAT/Tonnage Tax etc.

We noticed irregularities related to errors in levying tax under special provisions of the Act due to:

- (i) errors in computation of book profit,
- (ii) not considering the expenditure disallowed under normal provisions for computing book profit,
- (iii) not considering the specified expenditure for computing book profit,
- (iv) tax levied under normal provisions instead of special provisions, etc.

Errors noticed under special provisions of the Act during FY 2016-17 to FY 2018-19, as brought out in the Compliance Audit Reports of the past three

38 Andhra Pradesh & Telangana, Delhi, Gujarat, Karnataka, Kerala, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal.

39 Andhra Pradesh & Telangana, Karnataka, Kerala and Maharashtra.

40 Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Tamil Nadu and West Bengal.

years along with findings of the current year Audit Report (2019-20) are summarised in Table 2.6 below.

| Table 2.6: Errors under special provisions |                                 |            |                  |            |                  |            |               |            |
|--|---------------------------------|------------|------------------|------------|------------------|------------|---------------|------------|
| Assessment                                 | Audit Report for the year ended |            |                  |            |                  |            |               |            |
|  | March 2017                      |            | March 2018       |            | March 2019       |            | March 2020    |            |
|  | (₹ in crore)                    |            |                  |            |                  |            |               |            |
|  | No. of errors                   | Tax Effect | No. of errors    | Tax Effect | No. of errors    | Tax Effect | No. of errors | Tax Effect |
| CT   | 1 <sup>41</sup>                 | 2.06       | 28 <sup>42</sup> | 100.43     | 22 <sup>43</sup> | 447.85     | 8             | 234.18     |

During FY 2019-20, these irregularities were highest in Pr. CCIT-Delhi (92.4 per cent).

## 2.4 Response to Audit

**2.4.1** We elicit response from the audited entities at different stages of audit. As per provision of Regulations 193 on completion of field audit, we issue the local audit report (LAR) to the ITD for comments.

CBDT's instruction No. 07 of 2017 lays down the Standing Operating Procedure to handle receipt/revenue Audit Objections superceding the instruction No. 09 of 2006, instruction No. 16 of 2013 and circular No. 08 of 2013.

The Audit Regulations 202 and 203 require the establishment of systems and procedures to ensure adequate, constructive and timely action on audit observations included in Inspection Reports/Audit Notes and establishment of audit committees for monitoring and ensuring compliance and settlement of pending audit observations. The Department's efforts to ensure that replies to audit are sent in the prescribed period have not been satisfactory.

**2.4.2** Table 2.7 below depicts the position of number of observations included in the LAR issued during FY 2017-18 to FY 2019-20 and replies received thereto and observations accepted (as on 31 March of the respective FY).

41 Maharashtra

42 Andhra Pradesh & Telangana, Delhi, Gujarat, Karnataka, Maharashtra, Odisha, Rajasthan, Tamil Nadu and West Bengal.

43 Andhra Pradesh & Telangana, Delhi, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu and West Bengal.

| Financial Year | Observations raised | Reply received        |                           | Reply not received | Percentage of observations accepted (where replies received) | Percentage of reply not received |
|----------------|---------------------|-----------------------|---------------------------|--------------------|--|----------------------------------|
|                |                     | Observations accepted | Observations not accepted |                    |  |                                  |
| 2017-18        | 24,502              | 3,983                 | 2,882                     | 17,637             | 58.02  | 71.98                            |
| 2018-19        | 21,533              | 3,357                 | 2,743                     | 15,433             | 55.03  | 71.67                            |
| 2019-20        | 16,330              | 2,412 <sup>#</sup>    | 3,252                     | 10,666             | 42.58  | 65.32                            |

# 1,409 Observations accepted and remedial action taken; 1,003 Observations accepted but remedial action not taken

**2.4.3** Table 2.8 below shows the position of pending observations.

| Period          | Corporate Tax       |                    | Income Tax    |                  | Other Direc Tax |               | Total         |                    |
|-----------------|---------------------|--------------------|---------------|------------------|-----------------|---------------|---------------|--------------------|
|                 | No.                 | Tax Effect         | No.           | Tax Effect       | No.             | Tax Effect    | No.           | Tax Effect         |
|                 |                     |                    |               |                  |                 |               |               | (₹ in crore)       |
| Upto March 2018 | 17,009              | 60,579.88          | 15,352        | 12,308.13        | 1,540           | 167.03        | 33,901        | 73,055.04          |
| March 2019      | 5,786               | 29,540.84          | 7,072         | 9,158.15         | 235             | 668.73        | 13,093        | 39,367.72          |
| March 2020      | 3,004 <sup>44</sup> | 17,041.39          | 4,102         | 1,802.87         | 77              | 3.77          | 7,183         | 18,848.03          |
| <b>Total</b>    | <b>25,799</b>       | <b>1,07,162.11</b> | <b>26,526</b> | <b>23,269.15</b> | <b>1,852</b>    | <b>839.53</b> | <b>54,177</b> | <b>1,31,270.79</b> |

The accretion in pendency in replies to audit findings each year has resulted in accumulation of 54,177 cases involving revenue effect of ₹ 1,31,270.79 crore as of 31 March 2020.

**2.4.4** We issued 577<sup>45</sup> high value cases to the Ministry and CBDT during August 2020 to December 2020 seeking their response within six weeks of receipt of the same. However, we received replies from the Ministry/CBDT only for 43<sup>46</sup> high value cases (July 2021). Out of these cases, remedial action was completed in 400 cases (69.20 *per cent*) having a tax effect of ₹ 2,952.55 crore (22.90 *per cent*), remedial action was initiated in 91 cases (15.74 *per cent*) involving a tax effect of ₹ 644.51 crore (5.0 *per cent*) and remedial action was neither initiated nor completed in 86 cases having a tax effect of ₹ 9,296.07 crore. Table 2.2 shows category wise details of these cases (sub-category-wise details are given in Appendix-2.3).

#### Non-production of records

**2.4.5** As per Section 18 of C&AG's (DPC) Act, 1971, Audit has a right to call for any record or document to which its duty extends. Further, Regulation 185 of Regulations on Audit and Accounts, 2007 provides that the Officer in charge

44 Observations become pending after six months of issue of the observations;

45 One DP is having observation on both under assessment and over assessment for two AYs, hence considered as two cases in other places of the Report.

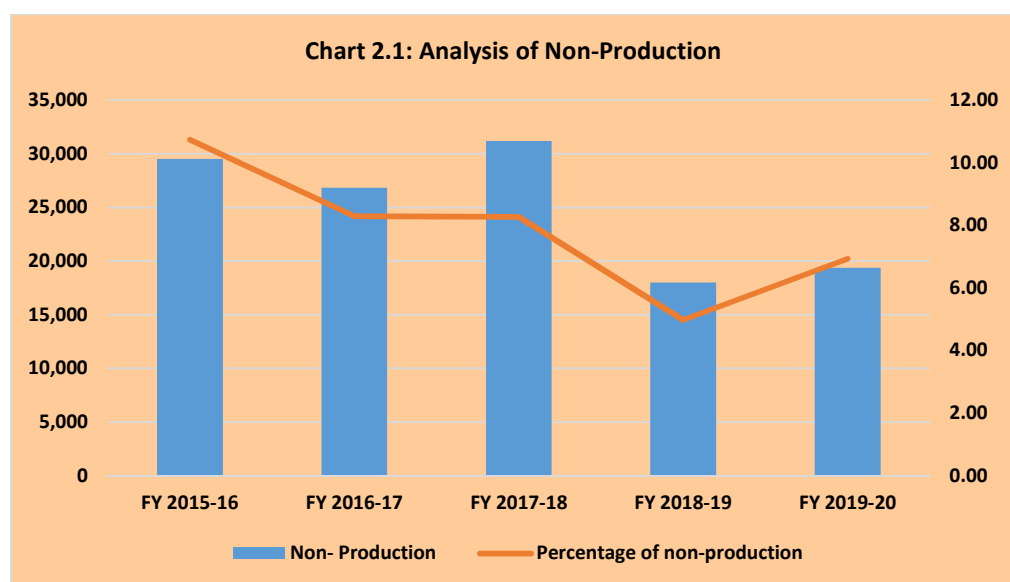
46 29 cases pertains to Chapter III (Corporate tax) and 14 cases pertains to Chapter IV (Income tax)

of the auditee unit shall comply with requests of Audit for information and records as complete as possible and within the specified time.

CBDT's instruction no. 07 of 2017 lays down Standing Operating Procedure to handle receipt/revenue Audit Objections superseding the instruction no. 09 of 2006, instruction no. 16 of 2013 and circular no. 08 of 2013.

As per para 8.1.2 of Audit Manual of the ITD, the AO shall supply the assessment and other records, as requisitioned by the LAP. If it is not possible to make available any particular record requisitioned, the AO shall communicate the reasons for the same to the LAP in writing with prior approval of the PCIT and such records shall invariably be produced to audit at the next audit cycle.

**2.4.6** Notwithstanding above, the ITD did not produce 19,484 out of 2,79,939 records<sup>47</sup> (6.96 per cent) requisitioned during FY 2019-20. The non-production of records to Audit is a recurring phenomena as detailed in Chart 2.1 below.



Appendix 2.3 shows the details of non-production of records during FY 2017-18 to FY 2019-20. Non-production of records has increased significantly in Pr. CCIT-Tamil Nadu, Pr. CCIT-Gujarat, Pr. CCIT-NER, Pr. CCIT-Odisha and Pr. CCIT-Kerala FY 2019-20 over the previous year.

Table 2.9 below shows details of records not produced to audit pertaining to same assessees in three or more consecutive audit cycles.

| <b>Table 2.9: Records not produced to Audit in three or more audit cycles</b> |                             |
|---|-----------------------------|
| <b>States</b>   | <b>Records not produced</b> |
| <b>a.</b> Tamil Nadu  | 1,479                       |
| <b>b.</b> Odisha  | 9                           |
| <b>Total</b>  | <b>1,488</b>                |

<sup>47</sup> Includes 20,413 records not produced in earlier years and requisitioned again during current audit cycle

In FY 2019-20, 1,488 records pertaining to same assessees in two states were not produced to audit in last three or more consecutive audit cycles.

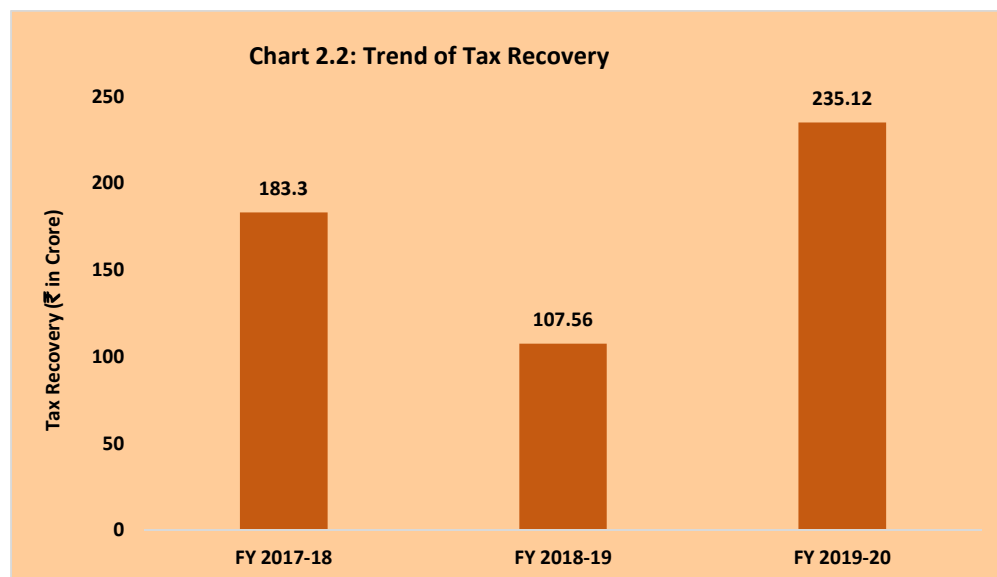
### Recommendations

*It is recommended that*

- *The Ministry/CBDT may enforce the laid down system with instructions that PCIT/CIT(Audit) may take suitable action against defaulters.*
- *Provisions of the Audit Regulations need to be observed in letter and spirit by the ITD.*
- *Timely submission of replies either for acceptance or non-acceptance of the paras may also be ensured so as to prevent the outstanding paras from becoming time-barred for remedial action.*

### Recovery at the instance of Audit

**2.5** The ITD takes remedial actions to rectify the mistakes pointed out by the Audit during compliance audit and performance audit. The ITD made recoveries from demands raised to rectify the mistakes. Recoveries made during FY 2017-18 to FY 2019-20 is given in Chart 2.2 below:



The ITD recovered ₹ 525.98 crore in the last three years from demands raised to rectify the errors in assessments that we pointed out. This includes ₹ 235.12 crore recovered in FY 2019-20.



## Chapter III: Corporation Tax

### 3.1 Introduction

**3.1.1** This chapter discusses 356 high value corporate cases (refer para 2.3) involving 368 assessments and total tax impact of ₹ 12,476.53 crore<sup>48</sup> which were referred to the Ministry during August 2020 to December 2020. The Ministry/the ITD accepted 152 cases involving tax effect of ₹ 2,571.55 crore, partially accepted one case involving tax effect of ₹ 0.66 crore and did not accept 19 cases involving tax effect of ₹ 8,535.16 crore. However, out of 356 cases, the ITD has completed remedial action in 208 cases involving tax effect of ₹ 2,576.41 crore and initiated remedial action in 74 cases involving tax effect of ₹ 619.25 crore. In the remaining 74 cases, the ITD has still not taken/initiated any action as on 15 July 2021.

**3.1.2** The categories of errors can be broadly classified as follows:

- Quality of assessments
- Administration of tax concessions/ exemptions/ deductions
- Income escaping assessments due to omissions
- Others – Overcharge of tax/ Interest etc.

The subsequent paragraphs give a few illustrations of each category of the above mentioned errors.

### 3.2 Quality of assessments

**3.2.1** Assessing Officers (AOs) committed errors in the assessments ignoring clear provisions in the Act. These cases of incorrect assessments point to continuing weaknesses in the internal controls on the part of the ITD which need to be addressed on priority. The cases of incorrect assessments involving arithmetical errors in computation of income and tax are difficult to accept as mere errors, in the days of calculators and IT Systems. Further, application of incorrect rates of tax and surcharge, mistakes in levy of interest under section 220(2), 234A, 234B, 234C and 234D, excess or irregular refunds etc. point to significant deficiencies in the performance of the Assessing Officers, as well as weaknesses in the internal controls in the ITD which need to be addressed. The ITD may ascertain whether the instances of irregularities noticed are errors of omission or commission while ensuring necessary action as per law in cases involving errors of commission. Table 3.1 below shows the details of sub-categories of mistakes (refer para 2.3) which impacted the quality of assessments.

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<sup>48</sup> Includes overcharge of ₹ 112.16 crore.

| Table 3.1: Sub-categories of mistakes under Quality of assessments |            |                            |  |
|--|------------|----------------------------|--|
| Sub-categories   | Cases      | Tax effect<br>(₹ in crore) | States   |
| a. Arithmetical errors in computation of income and tax            | 31         | 193.29                     | Andhra Pradesh & Telangana, Delhi, Gujarat, Himachal Pradesh, Maharashtra, Odisha, Punjab, Tamil Nadu, Uttar Pradesh and West Bengal.                    |
| b. Application of incorrect rate of tax and surcharge              | 17         | 78.55                      | Delhi, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal.   |
| c. Errors in levy of interest                                      | 75         | 481.00                     | Andhra Pradesh & Telangana, Delhi, Goa, Gujarat, Karnataka, Kerala, Maharashtra, Odisha, Punjab, Tamil Nadu, Uttarakhand, Uttar Pradesh and West Bengal. |
| d. Excess or irregular refunds/interest on refunds                 | 6          | 24.08                      | Karnataka, Maharashtra and West Bengal.  |
| e. Errors in assessment while giving effect to appellate order     | 5          | 42.00                      | Delhi, Rajasthan and West Bengal.  |
| <b>Total</b>   | <b>134</b> | <b>818.92</b>              |  |

### 3.2.2 Arithmetical errors in computation of income and tax

We noticed arithmetical errors in computation of income and tax in 31 cases involving tax effect of ₹ 193.29 crore in 10 states. We give below four such illustrative cases:

*As per section 143(3) of the Act, AOs are required to make correct assessment of the total income of the assessee and determine the correct amount of tax payable by the assessee.*

**Case I CIT Charge : PCIT-LTU, Chennai**  
**Assessee Name : M/s 'A' Ltd.**  
**Assessment Year : 2015-16**

The Assessing Officer (AO), while finalising the assessment in December 2017, disallowed ₹ 238.71 crore of short term capital loss claimed by the assessee, but omitted to add back the said disallowance in the income tax computation statement. The error resulted in under assessment of ₹ 238.71 crore Involving potential tax effect of ₹ 71.61 crore. *The Department agreed (August 2018) to look into the audit observation.* However, the status of action, if any, taken was awaited (May 2021).



**Case II CIT Charge : Pr. CIT 5, Mumbai**  
**Assessee Name : M/s 'B' Ltd.**  
**Assessment Year : 2016-17**

The AO, while finalising the assessment in December 2018, adopted incorrect opening/closing balance of investments and disallowed ₹ 11.43 crore under section 14A read with rule 8D instead of the correct amount of ₹ 114.31 crore. The error resulted in over assessment of loss by ₹ 102.88 crore, involving potential tax effect of ₹ 31.79 crore. The reply from the ITD/the Ministry was awaited for almost two years (May 2021).

**Case III CIT Charge : Pr. CIT 5, Kolkata**  
**Assessee Name : M/s 'C' Ltd.**  
**Assessment Year : 2016-17**

The AO, while finalising the assessment in December 2018, computed income of ₹ 170.30 crore instead of correct income of ₹ 191.44 crore. The error resulted in under assessment of income of ₹ 21.14 crore involving tax effect of ₹ 9.73 crore including interest under section 234B. *The Department intimated (August 2019) that the error had been rectified under section 154 of the Act in April 2019.* However, the status of collection of demand of ₹ 9.73 crore was awaited (May 2021).

**Case IV CIT Charge : PCIT-V, Hyderabad**  
**Assessee Name : M/s 'D' Ltd.**  
**Assessment Year : 2016-17**

The scrutiny assessment of the assessee was completed in December 2018. The AO, while computing taxable income, erroneously adopted the income from operations as ₹ 1.81 crore as against ₹ 5.08 crore as per ITR for AY 2016-17 and estimated the total income at 10 *per cent* of the same. Further, other income of ₹ 2.19 crore consisting of interest and miscellaneous income was also estimated at 10 *per cent* instead of considering the same in full. The errors resulted in under assessment of income by ₹ 6.87 crore involving potential tax effect of ₹ 2.27 crore. *The Department accepted the audit observation (January 2020) and rectified the mistake under section 154 of the Act in September 2019.*

### **3.2.3 Application of incorrect rates of tax and surcharge**

We noticed application of incorrect rates of tax and surcharge in 17 cases involving tax effect of ₹ 78.55 crore in five states. We give below two illustrative cases:

*As per Section 113 of the Act, the total undisclosed income of the block period determined under Section 158BC, shall be chargeable to tax at the rate of 60 per cent.*

**Case I**    **CIT Charge**                :    **Delhi, CIT Central-2**  
                 **Assessee Name**            :    **M/s 'A' Ltd.**  
                 **Assessment Year**        :    **Block period 01.04.1990 to 14.02.2001**

The AO, while computing the tax liability in July 2017, levied tax of ₹ 53.45 crore at the rate of 35 *per cent* instead of ₹ 91.63 crore at the correct rate of 60 *per cent*. Besides, the AO had levied surcharge of ₹ 6.95 crore at the rate of 13 *per cent* also though it was not leviable. The errors had resulted in net short levy of tax of ₹ 31.23 crore. Audit noticed (February 2021) that the Department rectified the errors under section 263 of the Act in November 2020. However, the status of collection of demand of ₹ 31.23 crore was awaited (May 2021).

*Section 4(1) of the Income Tax Act, 1961 provides that income tax is chargeable for every assessment year in respect of the total income of the previous year of an assessee, according to the rates prescribed under the relevant Finance Act. The Finance Act relevant to assessment years 21012-13 and 2013-14 provides for levy of income tax at the rate of 40 per cent in the case of foreign companies.*

**Case II**    **CIT Charge**                :    **CIT, International taxation, New Delhi**  
                 **Assessee Name**            :    **'A' foreign Co.**  
                 **Assessment Years**        :    **2012-13 and 2013-14**

The AO, while computing tax liability in January 2016 and January 2017, levied tax at the rate of 10 *per cent* and 20 *per cent* on receipt of ₹ 3.25 crore and ₹ 8.75 crore towards payment for motor racing drivers for AYs 2012-13 and 2013-14 respectively instead of tax leviable at the rate of 40 *per cent*. The error had resulted in short levy of tax of ₹ 4.98 crore including interest. *The Department intimated (September 2019) that the mistake has been rectified the error under section 154 of the Act in September 2019.* However, the status of collection of demand of ₹ 4.98 crore was awaited (May 2021).

### **3.2.4 Errors in levy of interest**

We noticed errors in levy of interest in 75 cases involving tax effect of ₹ 481 crore in 13 states. We give below five illustrative cases:

*The Income Tax Act, 1961 provides for levy of interest for omissions on the part of the assessee at the rates prescribed by the Government from time to time. Section 234A provides for levy of interest on account of default in furnishing return of income at specified rates and for specified time period. Section 234B provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period. Section 234C provides for levy of interest on account of default in payment of instalments of advance tax at specified rates and for specified time period. Further, the work of completion of assessment order is done by Assessing Officers (AOs) in the Income Tax Department (the ITD) systems.*

**Case I    CIT Charge            :    CIT Central-3, Delhi**  
**Assessee Name            :    M/s 'A' Ltd.**  
**Assessment Year         :    2014-15**

The AO, while computing tax liability in December 2017, deducted ₹ 65.66 crore as tax paid whereas only ₹ 100.94 lakh on account of TDS was paid by the assessee. The AO also did not levy interest of ₹ 1.30 crore under section 234A(3) of the Act for not complying with the notice issued to assessee in May 2016. Furthermore, the AO levied interest of ₹ 29.26 crore under section 234B of the Act instead of the correct amount of ₹ 58.35 crore. These errors had resulted in short levy of tax by ₹ 95.04 crore. *The Department accepted (November 2019) the audit observation and rectified the errors under section 154 of the Act in October 2019.* However, the status of collection of demand of ₹ 95.04 crore was awaited (May 2021).

**Case II    CIT Charge            :    Pr. CIT-I, Kolkata**  
**Assessee Name            :    M/s 'B' Pvt. Ltd.**  
**Assessment Year         :    2011-12**

The AO, while computing tax demand of the assessee in December 2017, levied interest of ₹ 21.84 crore under section 234B instead of the correct amount of ₹ 57.07 crore. The error had resulted in short levy of interest of ₹ 35.23 crore. *The Department rectified the error under section 154/144/147 of the Act in June 2019 after issue of audit observation.* However, the status of collection of demand of ₹ 35.23 crore was awaited (May 2021).

**Case III    CIT Charge            :    PCIT-I, Bhubaneswar**  
**Assessee Name            :    M/s 'C' Ltd.**  
**Assessment Year         :    2011-12**

The AO, while computing tax liability of the assessee in December 2018, levied interest of ₹ 15.53 lakh under section 234A of the Act instead of the correct amount of ₹ 2.36 crore. The error had resulted in short levy of interest of ₹ 2.20 crore. Further, the AO also levied interest of ₹ 3.83 crore under section 234B instead of the correct amount of ₹ 26.34 crore, which resulted in short levy of interest of ₹ 22.51 crore under section 234B. Thus, the aggregate short levy of interest was ₹ 24.71 crore. Audit also noticed that the case was

processed manually and not through AST. *The Department accepted (January 2020) the audit observation and rectified the error under section 154 of the Act.* However, the status of collection of demand of ₹ 24.71 crore was awaited (May 2021).

**Case IV CIT Charge : CIT (Intl. Taxation), Bangalore**  
**Assessee Name : M/s 'D' Ltd.**  
**Assessment Year : 2008-09**

The AO, while computing the tax liability of the assessee in January 2018, calculated interest of ₹ 9.77 crore under section 234B instead of the correct amount of ₹ 23.91 crore. The AO considered the TDS credit as advance tax which should not have been reckoned as only TDS was actually deposited by the deductor in January 2014. The error had resulted in short levy of interest of ₹ 14.14 crore. *The Department accepted the audit observation (May 2020) and rectified the error under section 154 of the Act in March 2020.* However, the status of collection of demand of ₹ 14.14 crore was awaited (May 2021).

**Case V CIT Charge : CIT Central-3, Delhi**  
**Assessee Name : M/s 'N' Ltd.**  
**Assessment Year : 2011-12**

The AO, while computing tax liability of the assessee in December 2017, levied interest of ₹ 156.12 crore for 47 months, instead of correct amount of interest of ₹ 269.06 crore for 81 months. This had resulted in short levy of interest of ₹ 112.94 crore. The audit observation was communicated to the Department in March/April 2019. *The Department intimated (July 2019) that the mistake had been rectified under section 154 of the Act in July 2019.*

### **3.2.5 Excess or irregular refunds/interest on refunds**

We noticed six cases relating to excess or irregular refunds/interest on refunds involving tax effect of ₹ 24.08 crore in three states. We give below one illustrative case:

*Section 234D of the Act prescribes levy of interest in cases where the amount of refund issued during summary assessment exceeds the amount refundable on regular assessment at the rate of one half per cent on the excess amount so refunded. Section 244A stipulates payment of interest to the assessee by the ITD at the rate of one half per cent on the refund issuable in cases where excess tax was paid by the assessee.*

**Case I CIT Charge : PCIT 1, Mumbai**  
**Assessee Name : M/s 'A' Ltd.**  
**Assessment Year : 2013-14**

The AO completed the scrutiny assessment for AY 2013-14 in October 2017 at income of ₹ 103.3 crore. The assessee was eligible for refund of ₹ 29.36 crore on 23.10.2017. However, refund of ₹ 108.55 crore was issued to the assessee

on 19.02.2015 on the basis of summary assessment. The AO, while finalising the assessment, granted interest of ₹ 8.07 crore under section 244A upto the date of assessment (23.10.2017) instead of the correct amount of ₹ 3.37 crore for the period upto the date of granting of refund (19.02.2015). The error had resulted in excess grant of interest under section 244A. Further, interest was required to be levied under section 234D for excess refund which was not levied resulting in short levy of interest of ₹ 0.74 crore. Both the errors have tax effect of ₹ 5.44 crore. *The Ministry accepted (February 2021) the audit observation and rectified the error under section 154 of the Act in July 2019.* However, the status of collection of demand of ₹ 5.44 crore was awaited (May 2021).

### 3.2.6 Errors in assessment while giving effect to appellate orders

We noticed errors in assessment while giving effect to appellate orders in five cases involving tax effect of ₹ 42 crore in three states. We give below one illustrative case:

*As per section 115-O of the Act, in addition to the income-tax chargeable in respect of total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends on or after the 1st day of April, 2003, whether out of current or accumulated profits shall be charged to additional income-tax. Further, as per section 143(3), AO is required to make a correct assessment of the total income or loss of the assessee and determine correct amount of tax or refund, as the case may be.*

**Case I    CIT Charge                :    PCIT-2, Kolkata**  
**Assessee Name            :    M/s 'A' Ltd.**  
**Assessment Year            :    2015-16**

The AO, while giving appeal effect in April 2018, generated refund of ₹ 131.25 crore without taking cognizance of Dividend Distribution Tax (DDT) of ₹ 38.69 crore already paid by the assessee. The error had resulted in short determination of refund of ₹ 38.69 crore. *The Department accepted (March 2019) the audit observation.* However, the status of completion of remedial action was still awaited (May 2021).

### 3.3 Administration of tax concessions/exemptions/deductions

**3.3.1** The Act allows concessions/exemptions/deductions to the assessee in computing total income under Chapter VI-A and for certain categories of expenditure under its relevant provisions. We observed that the AO had irregularly extended benefits of tax concessions/exemptions/deductions to beneficiaries who were not entitled for the same. These irregularities point out weaknesses in the administration of tax concessions/deductions/exemptions on the part of the ITD, which need to be addressed.

Table 3.2 below shows the details of sub-categories which have impacted the administration of tax concessions/exemptions/deductions.

| Table 3.2: Sub-categories of mistakes under Administration of tax concessions/exemptions/deductions |            |                    |   |
|---|------------|--------------------|---|
| Sub-categories  | Nos.       | TE<br>(₹ in crore) | States  |
| a. Irregularities in allowing depreciation/business losses/capital losses                           | 87         | 1,017.28           | Andhra Pradesh & Telangana, Assam, Bihar, Delhi, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. |
| b. Irregular exemptions/deductions/ rebates/ relief/MAT credit                                      | 30         | 1,733.64           | Andhra Pradesh & Telangana, Delhi, Jharkhand, Karnataka, Maharashtra, Rajasthan, Tamil Nadu and West Bengal.  |
| c. Incorrect allowance of business expenditure  | 40         | 187.75             | Andhra Pradesh & Telangana, Bihar, Delhi, Gujarat, Haryana, Jharkhand, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal.                       |
| <b>Total</b>  | <b>157</b> | <b>2,938.67</b>    |   |

### 3.3.2 Irregularities in allowing depreciation and set off and carry forward of business/capital losses

We noticed irregularities in allowing depreciation and set off and carry forward of business/capital losses in 87 cases involving tax effect of ₹ 1,017.28 crore in 14 states. We give below four such illustrative cases:

*Section 72 of the Income Tax Act, 1961 provides that, where the net result of the computation under the head 'profits and gains of the business or profession' is a loss to the assessee and such loss including depreciation cannot be wholly set off against income under any head of relevant year, so much loss as has not been set off shall be carried forward to the following assessment year/years to be set off against the 'profits and gains of the business or profession'.*

*As per CBDT's instruction no. 09/2007 dated 11 September 2007, the AO should carry out necessary verifications at the time of undertaking scrutiny assessments with reference to physical records and the claims related to losses including unabsorbed depreciation should be linked with the assessment records so as to ensure correctness of the allowance of claims of brought forward losses and depreciation. Remedial action for earlier years, wherever necessary, should also be initiated.*

**Case I    CIT Charge                :    CIT LTU Bangalore**  
**Assessee Name                :    M/s 'A' Pvt. Ltd.**  
**Assessment Year                :    2015-16**

The AO, while completing the scrutiny assessment in January 2019, allowed set off of brought forward unabsorbed depreciation of ₹ 468.85 crore pertaining to AYs 2012-13 to 2014-15 as claimed by the assessee. As per the assessment records of earlier years, loss of ₹ 96.50 crore only pertaining to AY 2013-14 was

available for set-off during AY 2015-16 as the assessments of AYs 2012-13 and 2014-15 were completed at positive income. The error had resulted in short computation of income of ₹ 372.36 crore involving short levy of tax of ₹ 186.91 crore including interest. *The Department accepted the audit observation (April 2019) and rectified the error under section 154 of the Act in April 2019.* However, the status of collection of demand of ₹ 186.91 crore was awaited (May 2021).

*Section 72A of the Act provides that in the case of amalgamation of a company owning an industrial undertaking or a banking company referred to in clause (c) of Section 5 of Banking Regulation Act, 1949 (10 of 1949) with a specified bank, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly." Further as per sub-section 7(aa) of section 72A, Industrial undertaking means any undertaking which is engaged in (i) the manufacture or processing of goods; or (ii) the manufacture of computer software; or (iii) the business of generation or distribution of electricity or any other form of power; or (iiia) the business of providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services; or (iv) mining; or (v) the construction of ships, aircrafts or rail systems.*

**Case II    CIT Charge                    :    Pr. CIT 1, Mumbai**  
**Assessee Name                         :    M/s 'B' Ltd.**  
**Assessment Year                        :    2015-16**

The AO, while finalising the assessment in December 2018, allowed set-off of the brought forward losses of ₹ 266.05 crore. The aforesaid brought forward losses included business losses of ₹ 212.01 crore and unabsorbed depreciation of ₹ 50.90 crore pertaining to a company amalgamated with the assessee during the relevant period. Further, there was nothing on record regarding set off of remaining loss of ₹ 3.13 crore. The assessee was engaged in the business of printing and publishing, electronic media, trading of leisure products, broadcasting, guaranteeing investing and financing, whereas the amalgamating company was a Broadcasting and Television company. Thus, the assessee was not satisfying the condition of an industrial undertaking as prescribed under section 72A, and was not a banking company either. Hence, set off of the brought forward losses of ₹ 266.05 crore of the amalgamating company pursuant to amalgamation with the assessee contravenes the provisions, *ibid*. The error had resulted in underassessment of income by ₹ 266.05 crore with a consequent short levy of tax of ₹ 131.12 crore. The Audit observation was communicated to the Department in November/ December 2019. The reply of the Department was awaited (May 2021).

*Section 72 of the Act provides that if the current year's loss including depreciation cannot be wholly set off against income under any head of a relevant year, such loss shall be carried forward to the following assessment year(s) for set off against the 'Profits and gains of the business or profession'. Further, section 80 provides that no loss shall be allowed to be carried forward or set off if the return of income is not filed within the stipulated time.*

**Case III CIT Charge : Pr. CIT 1, Patna**  
**Assessee Name : M/s 'C' Ltd.**  
**Assessment Year : 2015-16**

The AO, while finalising the assessment in December 2017, allowed carry forward of losses of ₹ 385.39 crore for set off in subsequent years which included business loss of ₹ 372.09 crore pertaining to AYs 2007-08, 2011-12 and 2014-15. Audit observed that the assessee had filed the income tax returns for aforesaid AYs after due date of filing of return. Hence, carry forward of business loss of ₹ 372.09 crore was not allowable. The error had resulted in potential tax effect of ₹ 126.47 crore. *The Department accepted the audit observation (May 2020) and rectified the error under section 263 of the Act in January 2021.*

**Case IV CIT Charge : Pr. CIT 8, Mumbai**  
**Assessee Name : M/s 'D' Ltd.**  
**Assessment Years : 2014-15 and 2015-16**

The AO, while finalising the assessment in December 2016 and December 2017, allowed set-off of loss of ₹ 453.28 crore and ₹ 34.98 crore respectively in AYs 2014-15 and 2015-16. However, brought forward losses of ₹ 220.35 crore only pertaining to earlier assessment years were available for set-off. The error had resulted in excess set off of losses of ₹ 267.91 crore (₹ 232.93 crore + ₹ 34.98 crore) involving tax effect of ₹ 91.07 crore (₹ 79.18 crore + ₹ 11.89 crore). *The Department accepted (March 2020) the audit observation and rectified the error under section 154 of the Act.*

### **3.3.3 Irregular exemptions/deductions/rebate/relief/MAT credit**

We noticed 30 cases relating to irregular exemptions/deductions/rebate/relief/MAT credit involving tax effect of ₹ 1,733.64 crore in eight states. We give below five such illustrative cases:



*Section 32AC(1) of the Act provides for deduction of 15 per cent of the actual cost of new assets acquired and installed after the 31st day of March, 2013 but before the 1st day of April, 2015, for assessment year commencing on the 1st day of April, 2015 as reduced by the amount of deduction allowed if any subject to fulfilment of conditions specified in the Act.*

**Case I**    **CIT Charge**                :    **PCIT-II, Hyderabad**  
                  **Assessee Name**            :    **M/s 'A' Ltd.**  
                  **Assessment Year**        :    **2015-16**

The AO, while finalising the assessment in December 2017, allowed deduction of ₹ 767.02 crore towards investment allowance. The assessee was engaged in the business of power generation and generation of power is not specified for deduction in the Act. Thus the assessee was not eligible for the said deduction. The error had resulted in excess determination of loss by ₹ 767.02 crore having potential tax effect of ₹ 260.71 crore. *The Department accepted the audit observation (July 2019) and rectified the error under section 263 of the Act in May 2019.*

*Section 115JAA of the Act allows carry forward of MAT credit to an assessee when tax payable under normal provisions is more than tax under special provisions. However, such credit shall be limited to the difference of tax under normal provisions of the Act and tax under special provisions of the Act.*

**Case II**    **CIT Charge**                :    **PCIT 6, Chennai**  
                  **Assessee Name**            :    **M/s 'B' Pvt. Ltd.**  
                  **Assessment Year**        :    **2015-16**

The AO, while rectifying the assessment in March 2019, allowed setting off of brought forward losses of ₹ 323.66 crore and levied tax on the book profit under section 115JB. However, brought forward loss of ₹ 239.74 crore only pertaining to AYs 2012-13 and 2013-14 was available for set off. Thus, excess set off of loss of ₹ 83.92 crore had resulted in incorrect allowance of carry forward of MAT credit of ₹ 28.52 crore involving tax effect of ₹ 28.52 crore. The audit observation was communicated to the Department in October 2019. Reply of the ITD /Ministry was awaited (May 2021).

**Case III**    **CIT Charge**                :    **Pr. CIT-2, Jaipur**  
                  **Assessee Name**            :    **M/s 'C' Ltd.**  
                  **Assessment Year**        :    **2011-12**

The AO, while computing tax liability of the assessee in December 2017, allowed MAT credit of ₹ 101.59 lakh pertaining to AY 2010-11. However, the assessee paid income tax finally under normal provision in AY 2010-11. Hence, no MAT credit was available for carry forward. The error had resulted in incorrect allowance of MAT credit of ₹ 1.84 crore including interest. *The Department accepted the audit observation (June 2019) and rectified the error*

*under section 154 of the Act in May 2019. However, the status of collection of demand of ₹ 1.84 crore was awaited (May 2021).*

**Case IV CIT Charge : Pr. CIT-4, Kolkata**  
**Assessee Name : M/s 'A' Ltd.**  
**Assessment Year : 2011-12**

The assessment of a company for AY 2011-12 was completed after scrutiny in January 2016 determining income of ₹ 603.17 crore under normal provision of the Act and Book profit at ₹ 435.91 crore under special provisions of the Act. The assessment was subsequently rectified in September 2017 to correct MAT credit available to the assessee for set-off. In the instant case since tax under normal provisions was more than the tax on profit, therefore, tax was levied under normal provisions of the Act. However, as per the assessment records, the assessee was allowed MAT credit for the AY 2011-12 even though the income was assessed under normal provisions of the Act. The error had resulted in irregular carry forward of MAT credit involving a potential tax effect of ₹ 26.77 crore. *The Department intimated (July 2018) that the mistake had been rectified under section 154 in July 2018.*

**Case V CIT Charge : Pr. CIT- LTU 2, Mumbai**  
**Assessee Name : M/s 'R' Ltd.**  
**Assessment Year : 2014-15**

The AO, while finalising the assessment in February 2018, allowed deduction of ₹ 7,430.20 crore (100 per cent) u/s 10AA, being the fifth year of claim, after making adjustment to the extent of ₹ 24.48 crore. Audit, from the scrutiny of the assessment records, observed that the refinery had commenced operation (crude processing) in FY 2008-09 relevant to AY 2009-10 and the same was confirmed and certified by the Development Commissioner, SEZ on 08.05.2009. Therefore, AY 2014-15 was the sixth year of operation and hence, the assessee was eligible for deduction at the rate of 50 per cent of the profit in AY 2014-15. The error had resulted in under assessment of income by ₹ 3,715.10 crore involving tax effect of ₹ 1,262.76 crore. *The DCIT(LTU)-2, Mumbai, while not accepting (June 2019) the audit observation, stated that:*

*(a) During AY 2009-10, the assessee had claimed deduction towards pre-operative expenses for setting-up of new refinery unit. Further, project development expenditure was included in CWIP, and pursuant to trial run, some portion of CWIP pertaining to refinery SEZ was capitalised.*

*(b) As per Form 56F, the commencement date was certified as 01 April 2009.*

*(c) Refinery is complex set up comprising units such as crude distillation, Hydrotreaters for removal of Sulphur etc. Sustained operation of the refinery*

*is possible only when all units are proven and operating as per their design performance levels and mere production of intermediate goods is not manufacture and production of goods or working at much lower than the installed capacity does not amount to manufacture.*

The contention of the Department is not acceptable on the following grounds:

(i) The majority of the expenditure is required to be capitalised in the first year of operation for any newly set up industry. Capitalisation of expenditure has no relation with the claim of deduction under section 10AA. Once the assessee fulfils all the conditions laid down under the provisions of section 10AA of the Act, it is eligible for the deduction.

(ii) The assessee intimated (January 2009) the Development Commissioner, SEZ that it had commenced operation (crude processing) since 25 December 2008 and the same was also confirmed and certified by the Development Commissioner, SEZ. Hence, FY 2008-09 is to be treated as first year of claim for deduction under section 10AA. It is immaterial whether all other units were operational or not. If the assessee considered that in December 2008 only trial run of the refinery was started and for the refinery being fully operational, stabilization of all the units was must, they should not have declared the refinery operational in December 2008 to the Development Commissioner, SEZ.

(iii) Section 10AA does not differentiate between trial run and commercial production. The section says deduction shall be allowed in respect of a unit who begins to manufacture or produce articles or things during previous year relevant to any assessment year.

(iv) The Department did not furnish any reason for two different dates- one for commencement of production under the SEZ Act, 2006 and another for claiming deduction under the Income Tax Act, 1961.

(v) A comparative trend analysis based on Annual Performance Report (APRs) of the first three years (FY 2008-09 to FY 2010-11) submitted by the assessee to the Development Commissioner, SEZ shows a continuous increase in production reflecting regular production instead of trial production, indicating that the refinery was operational in December 2008. Further, as per the APR, the assessee exported refined products to 18 countries during three months (January to March 2009).

In view of the above, deduction under section 10AA at the rate of 100 *per cent* in AY 2014-15, being the sixth year of operation, was not allowable to the assessee and hence it should have been disallowed.

Reply from the Ministry was awaited (May 2021).

### 3.3.4 Incorrect allowance of business expenditure

We noticed 40 cases relating to incorrect allowance of business expenditure involving tax effect of ₹ 187.75 crore in 12 states. We give below three illustrative cases:

*Section 145 of the Act provides that income chargeable under the head "Profits and gains of business or profession" or "income from other sources" shall, subject to provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. A provision made in the accounts only for an accrued or known liability is an admissible deduction.*

**Case I**    **CIT Charge**                :    **PCIT-2, Delhi**  
                 **Assessee Name**                :    **M/s 'A' Pvt. Ltd.**  
                 **Assessment Year**                :    **2015-16**

The AO, while finalising the assessment in November 2017, allowed provisions for "Sales Tax Demand" and "Doubtful Debts" of ₹ 15 crore and ₹ 84.31 crore respectively. As the above expenditure was unascertained liabilities, the same was not admissible. The error had resulted in excess carry forward of loss of ₹ 99.31 crore involving potential tax effect of ₹ 33.76 crore. *The Department rectified the error under section 154 of the Act in March 2019 after issue of audit observation.*

*As per explanation 3D under section 43B a deduction of any sum, being interest payable under clause (e) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or advance shall not be deemed to have been actually paid.*

**Case II**    **CIT Charge**                :    **PCIT-V, Hyderabad**  
                 **Assessee Name**                :    **M/s 'B' Ltd.**  
                 **Assessment Year**                :    **2015-16**

The AO, while finalising the assessment in December 2016, allowed expenditure of ₹ 96.70 crore relating to "Finance Cost". Out of this, ₹ 89.13 crore was capitalized and classified under "Other Current Liabilities" being payable as per the approved moratorium schedule. Hence, it was not allowable expenditure. The error had resulted in excess determination of loss of ₹ 89.13 crore involving potential tax effect of ₹ 30.30 crore. *The Department replied (June 2020) that the mistake had been rectified by reassessing the assessment under section 144 read with section 147 of the Act in December 2019.*

*As per sub section (1) of section 145 of the Act, the income chargeable under the head 'Profits and Gains of Business or Profession' or 'Income from Other Sources' shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. It has judicially been held<sup>49</sup> that the previous year adjustments could not be made*

49 CIT Vs M/s Southern Cables and Engineering Works (289 ITR 167) (Kerala High Court)

*in the current year under mercantile system of accounting. Further, as per section 37, any expenditure (not being expenditure of the nature described in sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".*

**Case III CIT Charge : PCIT-III, Hyderabad**  
**Assessee Name : M/s 'D' Ltd.**  
**Assessment Year : 2014-15**

The AO, while finalising the assessment in December 2016, allowed expenditure of ₹ 55.38 crore towards interest on long term loans, salaries and incentives and other expenses. As the expenditures were debited to profit and loss account under prior period expenses, the same were inadmissible. The error had resulted in excess determination of loss of ₹ 55.38 crore having potential tax effect of ₹ 18.82 crore. *The Department accepted the audit observation (July 2019) and rectified the error under section 154 of the Act in May 2019.*

### 3.4 Income escaping assessment due to errors

**3.4.1** The Act provides that the total income of a person for any previous year shall include all incomes from whatever source derived, actually received or accrued or deemed to be received or accrued. We observed that the AOs either did not assess or under assessed total income that was required to be offered to tax. Table 3.3 below shows the sub-categories which have resulted in income escaping assessments due to errors.

| Sub-categories  | Nos.      | TE<br>(₹ in crore) | States  |
|---|-----------|--------------------|---|
| a. Income not assessed/ under assessed under special provisions | 8         | 234.18             | Delhi, Gujarat, Maharashtra and Tamil Nadu.                   |
| b. Income not assessed/ under assessed under normal provisions  | 17        | 1,069.86           | Delhi, Gujarat, Haryana, Maharashtra, Punjab and West Bengal. |
| c. Incorrect classification and computation of capital gains    | 5         | 7,007.42           | Karnataka, Maharashtra, Rajasthan and Tamil Nadu.             |
| d. Incorrect estimation of Arm's Length Price                   | 9         | 37.01              | Andhra Pradesh & Telangana and Delhi.                         |
| e. Errors in implementing provisions of TDS/ TCS                | 6         | 13.70              | Haryana, Karnataka, Maharashtra, Odisha and UT Chandigarh.    |
| f. Unexplained Investment/Cash Credits                          | 6         | 244.61             | Haryana and Maharashtra                                       |
| <b>Total</b>  | <b>51</b> | <b>8,606.78</b>    |   |

### 3.4.2 Income not assessed/under assessed under special provisions

We noticed that AO either did not assess income or under assessed income under special provisions in eight cases involving tax effect of ₹ 234.18 crore in four states. We give below one such illustrative case:

*Section 115JB of the Act provides for levy of Minimum Alternate Tax (MAT) at prescribed percentage of book profit if the income tax payable on the total income computed under the normal provisions is lesser than MAT.*

**Case I**    **CIT Charge**                :    **Pr. CIT-3 Rajkot**  
                 **Assessee Name**            :    **M/s 'A' Ltd.**  
                 **Assessment Year**        :    **2015-16**

The AO, while finalising the assessment in December 2017, levied tax under normal provisions of the Act. However, the tax payable on book profit was higher than the tax payable on income assessed under normal provisions. The failure to charge tax on book profit had resulted in short levy of tax of ₹ 2.97 crore. *The Department rectified the error under section 154 in June 2019 after issue of audit observation.* However, the status of collection of demand of ₹ 2.97 crore was awaited (May 2021).

### 3.4.3 Income not assessed/under assessed under normal provisions

We noticed that AO either did not assess income or under assessed income under normal provisions in 17 cases involving tax effect of ₹ 1,069.86 crore in six states. We give below three illustrative cases:

*CBDT vide Circular No. 10/2017 dated 23 March 2017 clarified that Foreign Currency Translation Reserve (FCTR) balance as on 1 April 2016 pertaining to exchange differences on monetary items for non integral operations, shall be recognised in the previous year relevant for AY 2017-18 to the extent not recognised in the income computation in the past.*

**Case I**    **CIT Charge**                :    **Pr. CIT 2, Mumbai**  
                 **Assessee Name**            :    **M/s 'A' Bank**  
                 **Assessment Year**        :    **2017-18**

The AO, while finalizing the assessment in March 2019, did not add the balance under Foreign Currency Translation Reserve (FCTR) as per the CBDT's above circular. The error had resulted in under assessment of business income of ₹ 2238.55 crore with consequent short levy of tax of ₹ 774.72 crore (excluding interest). *The Department accepted and rectified the error under section 263 of the Act in March 2020.* However, the status of collection of demand of ₹ 774.72 crore was awaited (May 2021).

*As per section 56(2)(viib), where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issues of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value<sup>50</sup> of the shares, shall be chargeable to income tax under the head Income from other sources.*

**Case II CIT Charge : CIT Central, Ludhiana**  
**Assessee Name : M/s 'B' Ltd.**  
**Assessment Year : 2014-15**

The AO, while finalising the assessment in November 2016, did not add any income on account of share premium of ₹ 32 per share of 36,55,272 shares issued. The error had resulted in short computation of income by ₹ 11.70 crore involving tax effect of ₹ 4.02 crore. The Audit observation was communicated to the Department in January 2019. Reply from ITD/the Ministry was awaited (May 2021).

**Case III CIT Charge : Pr. CIT 6, Mumbai**  
**Assessee Name : M/s 'E' Ltd.**  
**Assessment Year : 2014-15 and 2015-16**

The assessee company started power generation during trial run of power plant and earned net revenue of ₹ 344.51 crore in FY 2013-14 and ₹ 126.67 crore in FY 2014-15 from supply of this generated power. However, the assessing officer allowed the assessee to reduce this revenue from capital work in progress (CWIP) instead of assessing this revenue as income of the assessee for the concerned assessment year. Non-assessment of the revenue earned from supply of power as income of the concerned assessment year had resulted in under assessment of income of ₹ 344.51 crore in AY 2014-15 and ₹ 126.67 crore in AY 2015-16 consequential short levy of tax of ₹ 117.09 crore and ₹ 43.05 crore respectively (total short levy ₹ 160.14 crore). *The Department had accepted the audit observation (November 2019) and stated that suitable remedial action would be initiated.* However, the status of completion of remedial action was awaited (May 2021).

#### **3.4.4 Incorrect computation/ classification of capital gains**

We noticed five cases relating to incorrect computation/classification of capital gains involving tax effect of ₹ 7007.42 crore in four states. We give below one such illustrative case:

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<sup>50</sup> Calculated as per rules 11U and 11UA

*Section 50 stipulates the method of calculation of capital gain on transfer of depreciable asset. Where the full value of consideration received on transfer of the asset exceeds the written down value of the block of assets at the beginning of the previous year; such excess shall be deemed to be the capital gain arising from the transfer of short-term capital assets.*

**Case I    CIT Charge                :    PCIT-4, Bangalore**  
**Assessee Name                :    M/s 'A' Ltd.**  
**Assessment Year                :    2013-14**

The AO, while finalising the assessment in February 2017, accepted assessee's computation and reduced the cost of acquisition of ₹ 22.32 crore from the sale consideration of ₹ 18.66 crore of a building and determined the short term capital loss of ₹ 3.65 crore. Audit observed that the written down value (WDV) of block of assets in AY 2012-13 was nil as the assessee claimed depreciation on it. Thus, the reduction of cost of acquisition was not admissible. Further, an addition of asset worth ₹ 2.11 crore was made to the block of assets during AY 2012-13 and after allowing the depreciation on the addition made, the WDV of the block of assets was ₹ 1.90 crore. Thus, after reducing WDV of the block of assets from the sale consideration, actually there was a short term capital gain of ₹ 16.76 crore instead of capital loss of ₹ 3.65 crore. The error had resulted in short computation of short term capital gain of ₹ 16.76 crore involving tax effect of ₹ 8 crore including interest. Besides, allowing short term capital loss of ₹ 3.65 crore involving potential tax of ₹ 1.18 crore including interest. The cumulative tax effect is ₹ 9.18 crore including interest. *The Department accepted the audit observation and rectified under section 144 read with section 263 of the Act in May 2019.* However, the status of collection of demand was awaited (May 2021).

### **3.4.5 Incorrect estimation of Arm's Length Price**

We noticed nine cases relating to incorrect estimation of Arm's Length Price involving tax effect of ₹ 37.01 crore in two states. We give below one such illustrative case:

*Section 92C of the Act provides that the Arm's Length Price in relation to an international transaction shall be determined by any of the methods, being the most appropriate method, having regard to the nature of transaction or class of transaction or class of associated persons or functions performed by such persons or such other relevant factors as the Board may prescribe.*

**Case I    CIT Charge                :    CIT TPO-2, Delhi**  
**Assessee Name                :    M/s 'A' Pvt. Ltd.**  
**Assessment Years                :    2014-15 and 2015-16**

The Transfer Pricing Officer (TPO), while determining Arm's Length Price (ALP) in October 2017 and October 2018, did not exclude foreign exchange gain of



₹ 3.26 crore and ₹ 19.35 crore being non-operating income for the aforesaid assessment years respectively from the total operating income. The error had resulted in under adjustment of transfer pricing by ₹ 22.61 crore (₹ 3.26 crore and ₹ 19.35 crore) involving short levy of tax of ₹ 11.78 crore for these assessment years. *The Department accepted the audit observation (June 2020) and rectified the error under section 154 in August 2019 for both the assessment years. The Department also passed the rectification order based on revised TP adjustment under section 154 of the Act for AY 2014-15 in February 2020.*

### 3.4.6 Errors in implementation of TDS/TCS provisions

We noticed errors in implementation of TDS/TCS provisions in six cases involving tax effect of ₹ 13.70 crore in five states. We give below one such illustrative case:

*Section 143(3) provides that AO is required to make a correct assessment of the total income or loss of the assessee and determine the correct amount of tax or refund as the case may be. Section 40(a)(ia) enumerates the expenses which includes professional charges that cannot be claimed as deduction, if provisions of deduction of tax at source are not complied with.*

**Case I    CIT Charge                :    PCIT-4, Bangalore**  
**Assessee Name                :    M/s 'A' Pvt. Ltd.**  
**Assessment Year               :    2014-15**

The AO, while finalising the assessment in December 2016, did not disallow expenditure of ₹ 13.45 crore for not deducting tax at source. AO further allowed deduction of ₹ 3.03 crore, being the amount disallowed in the previous year (AY 2013-14) for non-compliance with the provisions of TDS. As no tax was deducted in respect of such disallowance in this year as well, the said deduction was not admissible. This led to further short computation of income of ₹ 3.03 crore. The errors had resulted in short computation of income of ₹ 16.48 crore (₹ 13.45 crore + ₹ 3.03 crore) involving short levy of tax of ₹ 6.60 crore including interest {₹ 4.63 crore (positive) and ₹ 1.97 crore (potential)}. *The Department accepted the audit observation and rectified the errors under section 154 of the Act in August 2018. However, the status of collection of demand was awaited (May 2021).*

### 3.4.7 Unexplained Investment/ Cash Credit

We noticed six cases relating to unexplained investment/cash credit involving tax effect of ₹ 244.61 crore in two states. We give below three such illustrative cases:

*Section 68 of the Act provides that, if assessee offers no explanation about the nature and source of any sum credited in the books of the assessee, the sum so credited may be charged to income tax as income of the assessee.*

**Case I**            **CIT Charge**            :            **PCIT-6, Mumbai**  
                         **Assessee Name**        :            **M/s 'D' Pvt. Ltd.**  
                         **Assessment Year**     :            **2011-12**

Re-assessment of the assessee company was completed in December 2017, determining income of ₹ 112.52 crore. In the re-assessment order, out of ₹ 580.22 crore share premium received by the assessee company during financial years relevant to AYs 2009-10 and 2011-12, share premium of ₹ 112.52 crore, received during the year relevant to AY 2011-12 only, was added as unexplained cash credit. However, share premium of ₹ 467.70 crore, received during the year relevant to AY 2009-10 was not added back, though it was also considered as unexplained cash credit. This resulted in under-assessment of income by ₹ 467.70 crore with consequent short levy of tax of ₹ 155.36 crore (excluding interest). The reply from the Ministry/ITD was awaited for the last three years (May 2021).

**Case II**    **CIT Charge**            :            **Pr. CIT LTU, Mumbai**  
                         **Assessee Name**        :            **M/s 'A' Pvt. Ltd.**  
                         **Assessment Year**     :            **2015-16**

The AO, while finalizing the assessment in December 2017, added back only ₹ 1.43 crore pertaining to the current year's loan out of long term borrowing of ₹ 6.45 crore on account of unexplained cash credit. However, the Department failed to add the remaining borrowing of ₹ 5.10 crore pertaining to earlier years as there was no explanation furnished by the assessee for long-term borrowing. The error had resulted in underassessment of income of ₹ 5.10 crore with consequent short levy of tax of ₹ 2.20 crore including interest. *The Department accepted (April 2018) the audit observation and agreed to initiate action under section 147 of the Act.* However, the status of completion of remedial action was still awaited (May 2021).

**Case III**    **CIT Charge**            :            **Pr. CIT 9, Mumbai**  
                         **Assessee Name**        :            **M/s 'G' Ltd.**  
                         **Assessment Year**     :            **2010-11**

In the re-assessment order in December 2017, the AO discussed the information received in the investigation report on unexplained deposit of ₹ 249.06 crore for which the assessee failed to furnish a reply to the satisfaction of the AO. Therefore, unexplained deposit of ₹ 249.06 crore should have been assessed as income under section 68 of the Act. However, the assessing officer failed to assess and tax the unexplained deposit. Failure to do so had resulted in under assessment of income of ₹ 249.06 crore with consequent short levy of tax of ₹ 84.65 crore. *The Ministry*

accepted (March 2021) the audit observation and initiated remedial action under section 263.

### 3.5 Over-charge of tax/interest

**3.5.1** We noticed that AOs over assessed income in 14 cases involving over-charge of tax and interest of ₹ 112.16 crore in Andhra Pradesh and Telangana, Delhi, Kerala, Maharashtra, Madhya Pradesh, Odisha and West Bengal. We give below three such illustrative cases:

**Case I**    **CIT Charge**                :    **Pr. CIT 3, Mumbai**  
                   **Assessee Name**            :    **M/s 'A' Ltd.**  
                   **Assessment Year**        :    **2012-13**

The AO, while reassessing the income in December 2018, started computation by adopting loss at ₹ 225.08 crore instead of loss of ₹ 478.15 crore as determined in the last order i.e. order giving effect to the CIT (Appeals) order in April 2018. The error had resulted in underassessment of loss of ₹ 253.06 crore involving potential excess levy of tax of ₹ 82.11 crore. The audit observation was issued in November 2019. The reply from the Ministry/ITD was awaited (May 2021).

**Case II**    **CIT Charge**                :    **PCIT, Kochi-I**  
                   **Assessee Name**            :    **M/s 'B' Pvt. Ltd.**  
                   **Assessment Year**        :    **2012-13**

The AO, while computing tax demand as per the revised order of November 2017, levied interest of ₹ 4.36 crore instead of correct amount of ₹ 2.31 crore. The error had resulted in overcharge of interest by ₹ 2.05 crore. *The Department intimated (February 2020) that the mistake had been rectified under section 154 of the Act in January 2020.*

**Case III**    **CIT Charge**                :    **PCIT, Cuttack**  
                   **Assessee Name**            :    **M/s 'C' Ltd.**  
                   **Assessment Year**        :    **2012-13**

The AO, while computing tax liability in January 2018, levied interest of ₹ 8.10 crore instead of correct amount of ₹ 4.17 crore. The error had resulted in excess levy of interest of ₹ 3.93 crore. *The Department accepted (December 2019) the audit observation and rectified the error under section 154 of the Act in June 2019. However, the Department further stated that the computation of tax and interest was done through ITBA module and the AO had no control over the computation of tax payable by the assessee except to modify the interest chargeable under section 234C of the Act. Hence, DGIT (Systems) is the appropriate authority to furnish the factual position in this regard.*

As per the Audit Manual of the CBDT duly revised in 2019, Income Tax Business Applications (ITBA) has been rolled out and assessment and other ancillary works are required to be done on ITBA platform. With the launch of ITBA, the work flow would be monitored by supervisory authorities on system and would instill accountability at every level in field formation. The Department may therefore examine reasons for such errors in computation made through system and provide sufficient checks and safeguards against such errors while ensuring accuracy of computation and prevention of such irregularities.

## Chapter IV: Income Tax

### 4.1 Introduction

**4.1.1** This chapter discusses 221<sup>51</sup> high value non-corporate cases (refer para 2.3) involving 236<sup>52</sup> number of assessments with a total tax impact of ₹ 416.60 crore which were referred to the Ministry during August 2020 to December 2020. The Ministry/the ITD accepted 104 cases involving tax effect (TE) of ₹ 256.00 crore, partially accepted one case involving TE of ₹ 0.77 crore and did not accept two cases involving TE of ₹ 1.16 crore. However, out of 221 cases, AOs completed remedial action in 192 cases involving TE of ₹ 376.14 crore and initiated remedial action in 17 cases involving TE of ₹ 25.26 crore. In the remaining 12 cases, the ITD has not taken/ initiated any action as on 15 July 2021.

**4.1.2** The categories of errors can be broadly classified as follows:

- Quality of assessments
- Administration of tax concessions/exemptions/deductions
- Income escaping assessments due to errors
- Others-Overcharge of tax/interest etc.

The subsequent paragraphs give few illustrations of each category of the above mentioned errors.

### 4.2 Quality of assessments

**4.2.1** AOs committed errors in the assessments ignoring clear provisions in the Act. These cases of incorrect assessments point to continuing weaknesses in the internal controls on the part of the ITD which need to be addressed.

Table 4.1 below shows the sub-categories of errors which impacted the quality of assessments.

| Table 4.1: Details of errors in quality of assessment    |       |                    |   |
|--|-------|--------------------|---|
| Sub-categories   | Cases | TE<br>(₹ in crore) | States  |
| a. Arithmetical errors in computation of income and tax  | 8     | 97.88              | Delhi, Madhya Pradesh, Maharashtra and West Bengal  |
| b. Incorrect application of rates of tax, surcharge etc. | 33    | 39.85              | Assam, UT-Chandigarh, Delhi, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra and Odisha |

51 One case (DP no. 7-IT) is falling under both the categories of under assessment and over assessment and hence this case has been treated as two high value cases for this chapter. However, in actual, 221 high value non corporate cases were referred to the Ministry.

52 Of the 236 assessment cases, 227 cases involve undercharge of ₹ 391.72 crore and nine cases involve overcharge of ₹ 24.88 crore.

|   |            |               |   |
|---|------------|---------------|---|
| c. Errors in levy of interest                                   | 123        | 187.24        | Andhra Pradesh & Telangana, Bihar, UT-Chandigarh, Chhattisgarh, Delhi, Gujarat, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Punjab, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal |
| d. Errors in assessment while giving effect to appellate orders | 2          | 0.69          | Jharkhand and Maharashtra   |
| <b>Total</b>  | <b>166</b> | <b>325.66</b> |   |

#### 4.2.2 Arithmetical errors in computation of income and tax

We noticed arithmetical errors in computation of income and tax in eight cases involving tax effect of ₹ 97.88 crore in four states. We give below four such illustrative cases:

*The Income Tax Act, 1961 provides that the AO is required to make a correct assessment of the total income or loss of the assessee and determine correct amount of tax or refund, as the case may be.*

**Case I**    **CIT Charge**                :    **CIT Central 3, Delhi**  
**Status**                                 :    **Individual**  
**Assessment Years**                :    **2011-12 to 2015-16**

The AO, while finalizing the assessments in December 2017, erroneously allowed the credit to the assessee for the amount of unpaid tax for each Assessment Year. The mistake resulted in undue credit of unpaid taxes of ₹ 45.60 crore. Further, the AO did not levy interest of ₹ 22.52 crore for late/non filing of Income Tax Returns (ITRs) by the assessee for the said AYs. The mistakes resulted in short levy of tax of ₹ 68.12 crore including interest. *The Department accepted the audit observation (November 2019) and stated that the mistakes had been rectified in October 2019 for each AY.* However, the status of collection of demand was awaited (May 2021).

**Case II**    **CIT Charge**                :    **Pr. CIT-19 Mumbai**  
**Status**                                 :    **Firm**  
**Assessment Year**                :    **2009-10**

The AO, while finalizing the assessment in December 2017, computed the tax on income of the assessee at ₹ 0.41 crore instead of the correct amount of ₹ 12.24 crore. The mistake resulted in short levy of tax of ₹ 11.83 crore. *The Department intimated (November 2019) that the audit objection was rectified in October 2019.* However, the status of collection of demand was awaited (May 2021).

**Case III CIT Charge : Pr. CIT (Exemption), Bhopal**  
**Status : AOP (Trust)**  
**Assessment Year : 2016-17**

The AO, while finalizing the assessment in December 2018, levied tax on income of ₹ 1.56 crore instead of the assessed income of ₹ 3.93 crore. The mistake resulted in under assessment of income of ₹ 2.36 crore involving short levy of tax of ₹ 1.08 crore including interest. *The Department intimated (November 2019) that the audit objection was rectified in May 2019.* However, the status of collection of demand was awaited (May 2021).

**Case IV CIT Charge : Pr. CIT -16, Delhi**  
**Status : Firm**  
**Assessment Year : 2016-17**

The AO, while finalizing the assessment in February 2019, incorrectly computed the demand payable by the assessee at ₹ 103.22 crore instead of correct payable demand of ₹ 115.53 crore. The mistake resulted in short levy of tax of ₹ 12.31 crore. Further, the case was processed manually and not through AST. *The Department intimated (August 2019) that the audit objection was rectified in July 2019.* However, the status of collection of demand was awaited (May 2021)

**4.2.3 Incorrect application of incorrect rates of tax and surcharge, etc.** We noticed application of incorrect rates of tax and surcharge in 33 cases involving tax effect of ₹ 39.85 crore in nine states. We give below four such illustrative cases:

*Section 4(1) of the Income Tax Act, 1961 provides that income tax is chargeable for every assessment year in respect of the total income of the previous year of an assessee, according to the rates prescribed under the relevant Finance Act.*

**Case I CIT Charge : CIT Central 2, Delhi**  
**Status : Individual**  
**Assessment Year : 2017-18**

The AO, while computing the tax demand in December 2018, charged the tax on undisclosed income of ₹ 14.12 crore at the rate of 30 *per cent* instead of the applicable rate of 60 *per cent*. Further, the AO levied surcharge on tax at the rate of 15 *per cent* instead of the applicable rate of 25 *per cent*. The mistakes resulted in short levy of tax of ₹ 7.36 crore. *The Department intimated that the audit objection was rectified in November 2019.* However, the status of collection of demand was awaited (May 2021).

*Section 4(1) of the Income Tax Act, 1961 provides that income tax is chargeable for every assessment year in respect of the total income of the previous year of an assessee, according to the rates prescribed under the relevant Finance Act. As per the rates specified in the Finance Act, 2013, the amount of income tax computed in the case of every individual or Hindu Undivided Family or Association of Persons or body of individuals, whether incorporated or not or every artificial juridical person, co-operative society, firm and local authority with total income exceeding one crore rupees, shall be increased by a surcharge at the rate of 10 per cent of such income tax for the assessment year 2014-15.*

**Case II    CIT Charge                    :    CIT (Exemption) Bengaluru**  
**Status                                :    AOP (Trust)**  
**Assessment Year                    :    2014-15**

The AO, while finalizing the assessment in December 2016, did not levy surcharge at the applicable rate of 10 *per cent on the tax*. The omission resulted in short levy of tax of ₹ 3.20 crore including interest. Reply of the Department/the Ministry was awaited (May 2021).

**Case III    CIT Charge                    :    CIT(Exemption), Kochi**  
**Status                                :    Artificial Juridical Person**  
**Assessment Year                    :    2014-15**

The AO, while finalizing the assessment in December 2016, did not levy surcharge at the applicable rate of 10 *per cent on the tax*. The omission resulted in short levy of tax of ₹ 94.13 lakh including interest. *The Department intimated that the audit objection was rectified in December 2019.* However, the status of collection of demand was awaited (May 2021).

**Case IV    CIT Charge                    :    Pr. CIT-12, Mumbai**  
**Status                                :    Individual**  
**Assessment Year                    :    2011-12**

The AO, while computing the tax demand in the re-assessment order in December 2017, charged the tax on undisclosed income under section 68 at the rate of 20 *per cent* instead of applicable rate of 30 *per cent*. Further, disallowance made under section 14A read with rule 8D amounting to ₹ 6.98 lakh during the original assessment completed in March 2014 was omitted to be added back while computing total income during the re-assessment. The mistake resulted in short levy of tax of ₹ 4.99 crore including interest under section 234B. *The Department intimated (February 2020) that the audit objection was rectified in October 2019.* However, the status of collection of demand was awaited (May 2021).



#### 4.2.4 Errors in levy of interest

We noticed errors in levy of interest in 123 cases involving tax effect of ₹ 187.24 crore in 16 states. We have consistently been highlighting such errors in our compliance audit report. As such, this is a recurrent and persistent error. We give below 15 such illustrative cases:

*The Income Tax Act, 1961 provides for levy of interest for omissions on the part of the assessee at the rates prescribed by the Government from time to time. Section 234A provides for levy of interest on account of default in furnishing return of income at specified rates and for specified time period. Section 234B provides for levy of interest on account of default in payment of advance tax at specified rates and for specified time period. Section 234C provides for levy of interest on account of default in payment of instalments of advance tax at specified rates and for specified time period.*

**Case I      CIT Charge                   : Pr. CIT-I, Bhubaneswar**  
**Status                        : Firm**  
**Assessment Years       : 2014-15 to 2017-18**

The AO, while finalizing assessments in December 2018, did not levy interest under section 234A aggregating to ₹ 3.35 crore for AYs 2014-15 to 2016-17. Further, the AO levied interest under section 234B at ₹ 5.21 crore (for four AYs) instead of leviable interest of ₹ 25.38 crore, which resulted in short levy of interest of ₹ 20.17 crore. Audit further noticed that the AO levied interest under section 234C at ₹ 2.81 crore (for four AYs) instead of leviable interest of ₹ 89.50 lakh, resulting in excess levy of interest of ₹ 1.92 crore. The above errors resulted in aggregate short levy of interest of ₹ 21.60 crore. *The Department accepted the audit objection (February 2020) and rectified the mistake for AY 2014-15 in February 2020, for AY 2015-16 in January 2020, for AY 2016-17 in December 2020 and for AY 2017-18 in January 2020.* However, the status of collection of demand was awaited (May 2021).

**Case II     CIT Charge                   : CIT Central-3, Delhi**  
**Status                        : Individual**  
**Assessment Year        : 2015-16**

The AO, while finalizing assessment in December 2017, levied interest of ₹ 7.32 crore under section 234A as against interest leviable of ₹ 12.68 crore. The mistake resulted in short levy of interest of ₹ 5.37 crore. The Department intimated that the audit objection was *rectified in August 2019.* However, the status of collection of demand was awaited (May 2021).

**Case III CIT Charge : Pr. CIT-16, Delhi**  
**Status : Individual**  
**Assessment Year : 2011-12**

The AO, while finalizing assessment in December 2018, levied interest under section 234B at ₹ 4.83 crore for 24 months instead of leviable interest of ₹ 18.72 crore for 93 months. Further, interest of ₹ 74.48 lakh levied under section 234C by the department was not enforceable on the assessee, as the return of income was not filed by the assessee. These mistakes resulted in short levy of tax of ₹ 13.14 crore. *The Department accepted the audit observation and rectified the mistake under section 154 of the Act in November 2019.* However, the status of collection of demand was awaited (May 2021).

**Case IV CIT Charge : Pr. CIT 1, Kolhapur**  
**Status : Individual**  
**Assessment Year : 2010-11**

The AO, while finalizing the assessment in December 2017, levied interest under section 234A at ₹ 1.22 crore instead of the leviable amount of interest of ₹ 13.22 crore. The omission resulted in short levy of interest under section 234A of ₹ 12 crore. *The Department accepted the audit observation and took remedial action in January 2019.* However, the status of collection of demand was awaited (May 2021).

**Case V CIT Charge : Pr. CIT -16, Delhi**  
**Status : Individual**  
**Assessment Year : 2011-12**

The AO, while finalizing assessment in November 2018, levied interest of ₹ 2.40 crore under section 234B as against interest leviable of ₹ 9.19 crore. Further, interest of ₹ 36.94 lakh under section 234C erroneously charged by the AO, even though the return of income was not filed by the assessee. The mistakes resulted in short levy of interest of ₹ 6.42 crore. *The Department accepted the audit objection and rectified the mistake under section 154 in November 2019.* However, while passing the rectification order, the AO, incorrectly levied interest of ₹ 8.59 crore under section 234A instead of ₹ 8.79 crore as already charged in assessment order under section 147 read with section 144 of the Act. Further, the status of collection of demand was awaited (May 2021).

**Case VI CIT Charge : Pr. CIT-1, Surat**  
**Status : Individual**  
**Assessment Year : 2010-11**

The AO, while finalizing the assessment in December 2017, did not levy interest under section 234A of ₹ 5.04 crore. *The Department intimated that the audit objection was rectified under section 154 in April 2019.* However, the status of collection of demand was awaited (May 2021).

**Case VII CIT Charge : Pr. CIT -22, Delhi**  
**Status : Individual**  
**Assessment Year : 2009-10**

The AO, while finalizing assessment in December 2016, did not levy interest of ₹ 6.45 crore under section 234A. Further, interest of ₹ 26.83 lakh under section 234C erroneously charged by the AO, even though the return of income was not filed by the assessee. The mistakes resulted in short levy of interest of ₹ 6.19 crore. *The Department intimated that the audit objection was rectified under section 154 in August 2019.* However, while passing the rectification order, the AO, did not rectify the mistake of incorrect levy of interest under section 234C. Further, the status of collection of demand was awaited (May 2021).

**Case VIII CIT Charge : Pr. CIT, Vijayawada**  
**Status : Individual**  
**Assessment Year : 2007-08**

The AO, while finalizing the assessment in December 2017, failed to rectify the incorrect interest calculated by the system under section 234A and 234B. The IT System calculated interest under section 234A at ₹ 0.94 crore as against ₹ 0.06 crore and 234B at ₹ 0.08 crore as against ₹ 2.05 crore. The AO's omission to correct the system calculated interest resulted in short levy of interest amounting to ₹ 2.85 crore. *The Ministry accepted (April 2021) the audit observation and rectified the mistake in June 2019.* However, the status of collection of demand was awaited (May 2021).

**Case IX CIT Charge : Pr. CIT -16, Delhi**  
**Status : Individual**  
**Assessment Year : 2011-12**

The AO, while finalizing assessment in December 2016, levied interest of ₹ 7.73 crore under section 234A instead of leviable interest of ₹ 7.82 crore. Further, the AO levied interest of ₹ 2.11 crore under section 234B instead of leviable interest of ₹ 8.17 crore. Further, interest of ₹ 32.51 lakh under section 234C erroneously charged by the AO, even though the return of income was not filed by the assessee. The mistakes resulted in short levy of interest of

₹ 5.83 crore. *The Department accepted the audit objection and rectified the mistake under section 154 in November 2019.* However, while passing the rectification order, the AO, again incorrectly levied interest of ₹ 7.64 crore under section 234A instead of ₹ 7.81 crore. The status of collection of demand was awaited (May 2021).

**Case X**    **CIT Charge**                :    **Pr. CIT-13, Kolkata**  
                  **Status**                                :    **Individual**  
                  **Assessment Year**                :    **2012-13**

The AO, while finalizing the assessment in December 2017, did not levy interest under section 234B amounting to ₹ 2.25 crore. *The Department intimated that the audit objection was rectified under section 154 in March 2019.* However, the status of collection of demand was awaited (May 2021).

**Case XI**    **CIT Charge**                :    **Pr. CIT (Central), Kanpur**  
                  **Status**                                :    **Individual**  
                  **Assessment Year**                :    **2016-17**

The AO, while finalizing the assessment in December 2017, levied interest under section 234A at ₹ 31.08 lakh instead of the leviable amount of ₹ 1.64 crore. The omission resulted in short levy of interest under section 234A of ₹ 1.33 crore. *The Department intimated that the audit objection was rectified under section 154 in November 2019.* However, the status of collection of demand was awaited (May 2021).

**Case XII**    **CIT Charge**                :    **PCIT -18, Delhi**  
                  **Status**                                :    **Individual**  
                  **Assessment Year**                :    **2010-11**

The AO, while finalizing assessment in December 2017, levied interest of ₹ 85.55 lakh under section 234A instead of leviable interest of ₹ 9.52 crore. The mistake resulted in short levy of interest of ₹ 8.66 crore. *The Department intimated that the audit objection was rectified under section 154 in February 2019.* However, while passing the rectification order in February 2019, the AO, again incorrectly levied interest of ₹ 9.30 crore under section 234A instead interest leviable of ₹ 9.52 crore. Further, interest of ₹ 39.57 lakh under section 234C was also incorrectly charged. However, the status of collection of demand was awaited (May 2021).

**Case XIII CIT Charge : Pr. CIT-1, Chennai**  
**Status : Individual**  
**Assessment Year : 2013-14**

The AO, while finalizing assessment in December 2018, levied interest of ₹ 4.1 lakh under section 234A instead of leviable interest of ₹ 1.21 crore. The omission resulted in short levy of interest of ₹ 1.17 crore under section 234A. *The Department accepted the audit objection and rectified under section 154 in January 2021.* However, the status of collection of demand was awaited. (May 2021).

**Case XIV CIT Charge : Pr. CIT-2, Raipur**  
**Status : Individual**  
**Assessment Year : 2010-11**

The AO, while finalizing assessment in December 2017, did not levy interest under section 234A. The mistake resulted in non-levy of interest of ₹ 38.85 lakh under section 234A. *The Department accepted the audit objection and stated (October 2019) that remedial action was initiated.* However, the status of completion of remedial action was awaited (May 2021).

**Case XV CIT Charge : Pr. CIT-Central, Kanpur**  
**Status : Individual**  
**Assessment Year : 2009-10, 2010-11 & 2011-12**

The AO, while finalizing assessment in July/August 2017 for AYs 2009-10, 2010-11 and 2011-12, levied interest of ₹ 0.0048 lakh, ₹ 0.0038 lakh and ₹ Nil under section 234A(1) as against leviable interest of ₹ 1.78 crore, ₹ 0.91 crore and ₹ 1.01 crore respectively. The mistakes resulted in short levy of interest of ₹ 3.70 crore. *The Department intimated (May 2019) that the audit objection was rectified in April 2019.* However, the status of collection of demand was awaited (May 2021).

#### **4.2.5 Errors in assessment while giving effect to appellate orders**

We noticed errors in assessments while giving effect to appellate orders in two cases involving tax effect of ₹ 0.69 crore in two states. We give below one such illustrative case:

*Section 254 of the Income Tax Act, 1961, provides, that the Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit. Further, para 24.1 of Chapter 18 of Manual of Office Procedure (Volume II, Technical) of the Income Tax Department provides that on receipt of the Appellate Order in the Assessing Officer's office, immediate steps should be taken to revise the assessment in the light of the order.*

Case I CIT Charge : Pr. CIT, Ranchi  
 Status : Individual  
 Assessment Year : 2009-10

The AO, while giving effect to the appellate order in December 2016, erroneously computed tax of ₹ 66.43 lakh instead of the leviable amount of ₹ 1.10 crore. The omission resulted in short levy of tax of ₹ 43.70 lakh including interest. *The Department intimated that the audit objection was rectified in October 2017.* However, the status of collection of demand was awaited (May 2021).

### 4.3 Administration of tax concessions/exemptions/deductions

**4.3.1** The Act allows concessions/exemptions/deductions to the assessee in computing total income under Chapter VI-A and for certain categories of expenditure under its relevant provisions. We observed that the AOs had irregularly extended benefits of tax concessions/exemptions/ deductions to ineligible beneficiaries. Table 4.2 below shows the sub-categories which have impacted the administration of tax concessions/exemptions/ deductions.

| Table 4.2: Sub-categories of mistakes under administration of tax concessions/exemptions/deductions |           |                    |   |
|---|-----------|--------------------|---|
| Sub-categories  | Nos.      | TE<br>(₹ in crore) | States  |
| a. Irregular exemptions/ deductions/relief given to individuals                                     | 02        | 1.66               | Gujarat   |
| b. Irregular exemptions/ deductions/relief given to AOPs/Firms/Societies/Trusts                     | 03        | 2.85               | UT-Chandigarh, Gujarat and Odisha   |
| c. Incorrect allowance of Business Expenditure  | 02        | 1.11               | Maharashtra and Odisha  |
| d. Irregularities in allowing depreciation/ business losses/ capital losses                         | 11        | 27.83              | Delhi, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Tamil Nadu |
| <b>Total</b>  | <b>18</b> | <b>33.45</b>       |   |

### 4.3.2 Irregular exemptions/deductions/relief given to Individuals

We noticed irregular exemptions/deductions/relief given to Individuals in two cases involving tax effect of ₹ 1.66 crore in one state. We give below one such illustrative case:

*According to section 10(37) of the Income Tax Act, 1961, in computing the total income of a previous year of any person, being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land falling within any of the following clauses shall not be included- (i) such land is situate in any area referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of section 2; (ii) such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his; (iii) such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India; (iv) such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st day of April, 2004.*

**Case I      CIT Charge                      :   Pr. CIT-5, Ahmedabad**  
**Status                                :   Individual**  
**Assessment Year                    :   2016-17**

The AO, while finalizing the assessment in December 2018, allowed exemption to the assessee amounting to ₹ 2.75 crore on account of profit from sale of agriculture land, in contravention of the provisions of the Act. The mistake resulted in under assessment of long-term capital gain of ₹ 2.62 crore with consequent short levy of tax of ₹ 85.24 lakh. *The Department intimated (March 2021) that remedial action initiated under section 263.* However, the status of completion of remedial action was awaited (May 2021).

#### **4.3.3 Irregular exemptions/deductions/relief given to AOPs/Firms/Societies/Trusts**

We noticed irregular exemptions/deductions/relief given to AOPs/firms/societies/trusts in three cases involving a tax effect of ₹ 2.85 crore in three states. We give below one such illustrative case:

*Section 36(1)(viii) of the Act provides that against any provision for bad and doubtful debts made by a scheduled bank (not being a bank incorporated by or under the law of country outside India) or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding 7.5 per cent of the total income computed before making any deduction under this clause and chapter VIA and an amount not exceeding 10 percent of the aggregate average advance made by the rural branches of such bank computed in the prescribed manner shall be allowed as deduction.*

**Case I      CIT Charge                      :   Pr. CIT, Cuttack**  
**Status                                :   Co-operative Society**  
**Assessment Year                    :   2015-16**

The AO, while finalizing the assessment in November 2017, allowed provision of bad and doubtful debt of ₹ 1.28 crore as claimed by the assessee. However, assessee was eligible for deduction of ₹ 12.08 lakh only as per the provisions

of the Act. The mistake resulted in under assessment of income of ₹ 1.16 crore involving a tax effect of ₹ 54.97 lakh. *The Department intimated (March 2019) that remedial action under section 263 of the Act was initiated.* However, the status of completion of remedial action was awaited (May 2021).

#### **4.3.4 Incorrect allowance of business expenditure**

We noticed incorrect allowance of business expenditure in two cases involving tax effect of ₹ 1.11 crore in two states. We give below one illustrative case:

*As per provisions of section 37(1) of the Act, any expenditure (not being expenditure of the nature described in Sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession, shall be allowed as deduction in computing the income chargeable under the head "Profits and Gains of Business or Profession"*

**Case I      CIT Charge                    : Pr. CIT 19, Mumbai**  
**Status                             : Firm**  
**Assessment Year                : 2009-10**

The AO, while finalizing the assessment in December 2016, disallowed purchases made from certain parties as these parties were involved in providing accommodation entries. However, the AO failed to disallow the expense of ₹ 74 lakh, paid to the same parties for labour charges, since the parties were not doing any genuine business. The omission resulted in underassessment of income of ₹ 74 lakh involving short levy of tax of ₹ 48.55 lakh including interest. *The Department accepted the audit objection and rectified the mistake under section 154 in October 2019.* However, the status of collection of demand was awaited (May 2021).

#### **4.3.5 Irregularities in allowing depreciation/business losses/capital losses**

We noticed irregularities in allowing depreciation/business losses/capital losses in 11 cases involving tax effect of ₹ 27.83 crore in seven states. We give below three such illustrative cases.



*The CBDT vide instruction no. 09/2007 dated 11.09.2007 has directed all officers that instances have come to the notice of the Board in which substantial loss of revenue has occurred due to incorrect allowance of depreciation and incorrect set off of brought forward losses. The Assessing Officers should, therefore, carry out necessary verifications at the time of undertaking scrutiny assessments with reference to physical records and the claims related to losses including unabsorbed depreciation should be linked with the assessment records so as to ensure correctness of the allowance of claims of brought forward losses and depreciation.*

**Case I      CIT Charge                   : Pr. CIT Central, Bangaluru**  
**Status                         : Firm**  
**Assessment Year           : 2016-17**

The AO, while finalizing assessment in December 2018, allowed setting off of brought forward loss pertaining to AY 2012-13 even though no loss was available for that AY. The mistake resulted in excess set-off of loss of ₹ 26.44 crore involving short levy of tax of ₹ 12.32 crore including interest. *The Department accepted the audit observation and rectified the mistake under section 154 in October 2019.* However, the status of collection of demand was awaited (May 2021).

*Section 32 of the Act provides that if any assets falling within a block of assets is acquired by the assessee during the previous year and it is put to use for the purpose of business or profession for a period of less than 180 days in that previous year, the deduction in respect of such assets shall be restricted to 50 per cent of the amount calculated at the percentage prescribed in the case of block of assets comprising such asset.*

**Case II     CIT Charge                   : Pr. CIT-II, Bhubaneswar**  
**Status                         : AOP**  
**Assessment Year           : 2015-16**

The AO, while finalizing the assessment in December 2017, allowed depreciation on assets amounting to ₹ 19.17 crore instead of the available amount of depreciation of ₹ 12.27 crore. The mistake resulted in excess allowance of depreciation of ₹ 6.90 crore involving tax effect of ₹ 3.75 crore including interest. *The Department intimated that the audit objection was rectified under section 154 in June 2019.* However, the status of collection of demand was awaited (May 2021).

**Case III    CIT Charge                   : PCIT-16, Mumbai**  
**Status                         : Firm**  
**Assessment Year           : 2014-15**

The AO, while finalizing assessment in December 2016, allowed setting off of brought forward loss of ₹ 23.60 crore pertaining to AY 2013-14 even though the available loss for AY 2013-14 was only of ₹ 13.56 crore. The mistake

resulted in excess allowance of set-off of brought forward loss of ₹ 10.04 crore and consequent under assessment of income of ₹ 10.04 crore involving short levy of tax of ₹ 3.41 crore. *The Department intimated that the mistake was apparent and remedial action was initiated under section 154 in February 2020.* However, the status of completion of remedial action was awaited (May 2021).

#### 4.4 Income escaping assessments due to errors

**4.4.1** The Act provides that the total income of a person for any previous year shall include all incomes from whatever source derived, actually received or accrued or deemed to be received or accrued. We observed that the AOs did not assess or under assessed total income that was required to be offered to tax. Table 4.3 below shows the sub-categories which have resulted in income escaping assessments.

| Table 4.3: Sub-categories of mistakes under income escaping assessments due to errors |           |                            |  |  |
|---|-----------|----------------------------|--|--|
| Sub-categories  | Nos.      | Tax Effect<br>(₹ in crore) | States   |  |
| a. Incorrect classification and computation of Capital Gains                          | 05        | 8.26                       | Andhra Pradesh, UT-Chandigarh, Delhi, Haryana and Rajasthan  |  |
| b. Incorrect computation of income  | 19        | 19.36                      | Delhi, Gujarat, Haryana, Himachal Pradesh, Maharashtra, Madhya Pradesh, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal |  |
| c. Errors in implementing provisions of TDS/TCS                                       | 01        | 0.19                       | Jharkhand  |  |
| d. Unexplained Investment/cash credit   | 04        | 4.80                       | Haryana and Maharashtra  |  |
| <b>Total</b>  | <b>29</b> | <b>32.61</b>               |  |  |

#### 4.4.2 Incorrect classification and computation of Capital Gains

We noticed incorrect classification and computation of Capital Gains in five cases involving tax effect of ₹ 8.26 crore in five states. We give below one illustrative case:

*Section 54F of the Income Tax Act, 1961, provides that where the capital gain arises from the transfer of any long-term capital asset, not being a residential house and the assessee has, within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, a residential house, the amount of capital gain so arising shall not be charged to tax subject to certain conditions*

**Case I    CIT Charge            :   Pr. CIT, Guntur**  
**Status                    :   Individual**  
**Assessment Year    :   2014-15**

The AO, while finalizing the assessment in December 2016, allowed a deduction of ₹ 14.34 crore to the assessee for investing in purchase of vacant site in contravention to the provisions of the Act. The mistake resulted in under assessment of Long Term Capital Gain (LTCG) of ₹ 14.34 crore with a consequential short levy of tax of ₹ 5.10 crore including interest. *The Department accepted the audit observation and rectified the mistake under section 147 in December 2018.* However, the status of collection of demand was awaited (May 2021).

#### **4.4.3 Incorrect computation of income**

We noticed incorrect computation of income in 19 cases, involving tax effect of ₹ 19.36 crore in 10 states. We give below three illustrative cases:

*Section 143(3) of the Act provides that in a scrutiny assessment, the Assessing Officer (AO) is required to make a correct assessment of the total income or loss of the assessee and determine the correct sum payable by him or refundable to him on the basis of such assessment. Section 56(2)(vii)(b), provides that where an individual receives income from any immovable property, for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration, shall be chargeable to income-tax under the head income from other sources.*

**Case I    CIT Charge            :   Pr. CIT-I, Kanpur**  
**Status                    :   Individual**  
**Assessment Year    :   2015-16**

The AO, while finalizing the assessment in November 2017, did not add back the difference of amount as per the stamp duty value of the property and value of property as per sale deed. The mistake resulted in under assessment of income by ₹ 9.29 crore involving tax effect of ₹ 4.17 crore including interest. *The Department intimated that the audit objection was rectified the mistake under section 147/143(3) in December 2019.* However, the status of collection of demand was awaited (May 2021).

**Case II CIT Charge : Pr. CIT Central-2, Delhi**  
**Status : Individual**  
**Assessment Year : 2015-16**

The AO, while finalizing the assessment in December 2018, did not include the addition of ₹ 4.66 crore made on account of accommodation entries, which was discussed in the assessment order. The omission resulted in under assessment of income by equal amount involving short levy of tax of ₹ 2.31 crore including interest. *The Department intimated that the audit objection was rectified under section 154 in November 2019.* However, the status of collection of demand was awaited (May 2021).

**Case III CIT Charge : PCIT, Udaipur**  
**Status : Firm**  
**Assessment Year : 2015-16**

The AO, while finalizing the assessment in November 2017, did not add back the difference of amount as per the stamp duty value of the property and value of property as per sale deed. The mistake resulted in under assessment of income by ₹ 9.51 crore involving tax effect of ₹ 4.28 crore including interest. *The Ministry accepted (March 2021) the audit observation and intimated that notice under section 148 was issued to the assessee in May 2019 for taking remedial action.* However, the status of completion of remedial action was awaited (May 2021).

#### **4.4.4 Errors in implementing provisions of TDS/TCS**

We noticed mistakes in implementing provisions of TDS/TCS in one case involving tax effect of ₹ 0.19 crore in Jharkhand State. The case is illustrated below:

*As per section 194C of the Act, if any amount is paid to a sub-contractor during the course of business of plying, hiring or leasing of goods carriages no tax will be deducted if (a) the sub-contractor does not own more than ten goods carriages at any time during the previous year, (b) the sub-contractor submits a declaration to the payer in Form No. 15I and (c) the payer furnishes the details of above payment to the designated CIT in Form No. 15J on or before June 30 after the expiry of the financial year.*

**Case I CIT Charge : Pr. CIT, Ranchi**  
**Status : Individual**  
**Assessment Year : 2013-14**

The AO, while finalizing the assessment in March 2016, erroneously allowed an expense of ₹ 46.51 lakh towards transportation charges on which the assessee had not deducted tax at source (TDS). The omission resulted in

irregular allowance of expense by equal amount involving tax effect of ₹ 19.41 lakh including interest. *The Department intimated that the audit objection was rectified under section 147/143(3) in November 2018.* However, the status of collection of demand was awaited (May 2021).

#### 4.4.5 Unexplained Investment/cash credit

We noticed four cases relating to unexplained investment/cash credit involving tax effect of ₹ 4.80 crore in two states. We give below two illustrative case:

*Section 68 of the Income Tax Act, 1961 provides that where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the AO, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.*

**Case I    CIT Charge                :    CIT, Gurugram**  
**Status                        :    Firm**  
**Assessment Year            :    2016-17**

The AO, while finalizing the assessment in December 2018, added ₹ 3.50 crore to the income of the assessee towards unexplained credit instead of adding back the unexplained credit of ₹ 5.00 crore. The omission resulted in under assessment of income of ₹ 1.50 crore and short levy of tax of ₹ 69.04 lakh. *The Department intimated (January 2019) that the error has been partly rectified under section 154 in August 2018 by making an addition of ₹ 25 lakh and the remaining part would be reassessed under section 147.* Further reply of the Ministry/ITD was awaited (May 2021).

**Case II    CIT Charge                :    PCIT-19, Mumbai**  
**Status                        :    Individual**  
**Assessment Year            :    2015-16**

The AO, while finalizing the assessment in December 2017, added back ₹ 0.84 crore to the income of the assessee towards unexplained income instead of adding back unexplained income of ₹ 5.88 crore, as discussed in the assessment order. The omission resulted in under assessment of income of ₹ 5.04 crore involving short levy of tax of ₹ 2.28 crore including interest under section 234B. *The Department intimated that the audit objection was rectified under section 154 in February 2019.* However, the status of collection of demand was awaited (May 2021).

#### 4.5 Over charge of tax/interest

4.5.1 We noticed over assessment of income in nine cases involving overcharge of tax/interest of ₹ 24.88 crore in Delhi, Madhya Pradesh, Odisha, Rajasthan and West Bengal. We give below two such illustrative cases.

*Section 143(3) provides that Assessing Officer is required to make a correct assessment of the total income or loss of the assessee and determine the correct amount of tax or refund as the case may be.*

**Case I**    **CIT Charge**                : Pr. CIT 10, Delhi  
                 **Status**                                : Individual  
                 **Assessment Year**        : 2015-16

The AO, while finalizing the assessment in December 2017, levied interest under section 234C at ₹ 5.09 crore instead of leviable interest of ₹ 18.86 lakh. The mistake resulted in excess levy of interest of ₹ 4.90 crore. *The Department intimated that while allowing the effect of appeal order in March 2019, the interest under section 234C had been reduced to ₹ 0.05 lakh from ₹ 5.09 crore.* Audit, however, noticed that while giving effect to the appeal order, the AO levied interest under section 234C at ₹ 0.05 lakh instead of leviable interest of ₹ 18.86 lakh. Further reply of the Ministry/ITD was awaited (May 2021).

**Case II**    **CIT Charge**                : Pr. CIT-3, Jaipur  
                 **Status**                                : Firm  
                 **Assessment Year**        : 2016-17

The AO, while finalizing the assessment in December 2018, adopted the assessed income at ₹ 2.63 crore instead of ₹ 1.61 crore. The mistake resulted in over assessment of income by ₹ 1.02 crore involving over charge of tax of ₹ 32.33 lakh including interest. *The Department accepted the audit observation and rectified the mistake under section 154 in June 2020.*

#### 4.6 Recommendations

(i) *Application of incorrect rates of tax and surcharge, errors in levy of interest, excess or irregular refunds etc. point to weaknesses in the internal controls in the ITD which need to be addressed.*

(ii) *While the Ministry has taken action to initiate correction in the cases pointed out by the Audit, it may be mentioned that these are only a few illustrative cases, test checked in audit. In the entire universe of all assessments, including non-scrutiny assessments, such errors of omission or*

*commission cannot be ruled out. The CBDT not only needs to revisit its assessments, but also put in place a fool proof IT system and internal control mechanism to avoid recurrence of such errors in the future.*

*(iii) The CBDT may examine whether the instances of “errors” noticed are errors of omission or commission and if these are errors of commission, then the ITD should ensure necessary action as per law.*

**New Delhi**  
**Dated: 6 August 2021**



**(Monika Verma)**  
**Director General (Direct Taxes-I)**

**Countersigned**

**New Delhi**  
**Dated: 23 August 2021**



**(Girish Chandra Murmu)**  
**Comptroller and Auditor General of India**



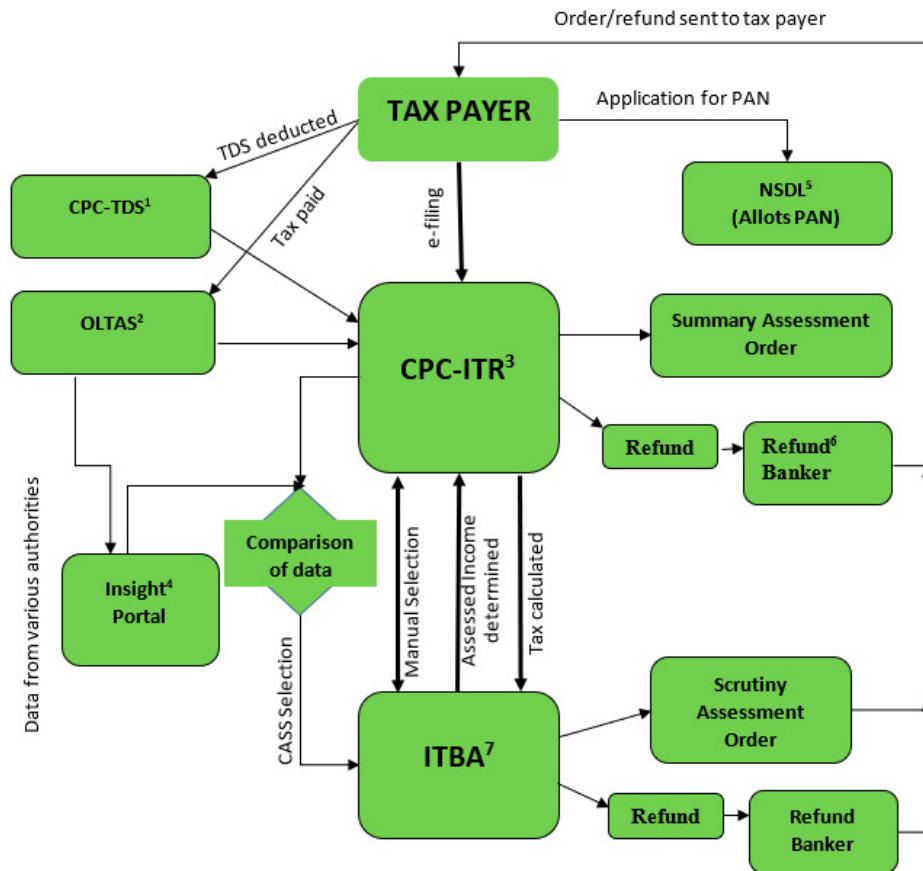


# **Appendices**



Appendix 1.1 (Reference Paragraph 1.6)

Tax Administration process



1. CPC-TDS (Centralized Processing Centre – Tax Collection at source) reconciles and co-relates information from various sources including banks, deductors, Assessing Officers (AOs) and Tax Professionals.
2. OLTAS (Online Tax Accounting System) is a system for collection, accounting and reporting of the receipts and payments of Direct Taxes from all kind of taxpayers, online through a network of bank branches.
3. CPC-ITR (Centralized Processing Centre – Income Tax Returns) for bulk processing of Income Tax Returns (ITRs) expeditiously determines the tax payable by, or refund due to the assessee.
4. The Insight Portal uses data mining, research and analytics against black money and tax evasion and provides inputs for CASS (Computer Aided Scrutiny Selection) selection.
5. NSDL (National Securities Depository Ltd) through its chain of TIN-Facilities (TIN-FCs) and PAN centres accepts PAN applications and issues PANs.
6. Facilitates transmission of refunds generated by CPC/AOs to the State Bank of India, CMP branch for further distribution to taxpayers.
7. ITBA (Income Tax Business Application) is a business application to create paperless electronic processes and to provide a single user interface to access various functionalities of the ITD.

**Appendix 2.1 (Reference: Paragraph 2.2.4)**

| State  | Assessments completed in units selected for audit during 2019-20 | Assessments checked in audit during 2019-20 | Audit observations raised during 2019-20 | Assessment seen by IAP where audit observations raised | Percentage where audit observation raised after audit by IAP |
|--|--|---|--|--|--|
| 1  | 2  | 3   | 4  | 5  | 6  |
| Andhra Pradesh & Telangana   | 26,514   | 16,441                                      | 1,275                                    | 231  | 18.12  |
| Assam  | 4,327  | 4,069                                       | 269                                      | 8  | 2.97   |
| Delhi  | 42,998   | 40,112                                      | 2,074                                    | 35   | 1.69   |
| Gujarat  | 8,486  | 7,868                                       | 575                                      | 8  | 1.39   |
| UTs of Jammu & Kashmir and Ladakh, Himachal Pradesh, UT Chandigarh, Punjab and Haryana | 31,710   | 23,199                                      | 1,329                                    | 84   | 6.32   |
| Karnataka and Goa  | 8,881  | 8,301                                       | 639                                      | 75   | 11.74  |
| Kerala   | 4,768  | 4,638                                       | 434                                      | 114  | 26.27  |
| Madhya Pradesh and Chattisgarh   | 31,721   | 24,232                                      | 1,319                                    | 55   | 4.17   |
| Maharashtra  | 89,383   | 41,731                                      | 2,195                                    | 62   | 2.82   |
| Odisha   | 3,667  | 3,322                                       | 368                                      | 13   | 3.53   |
| Rajasthan  | 10,488   | 10,382                                      | 430                                      | 12   | 2.79   |
| Tamil Nadu   | 27,257   | 23,903                                      | 2,285                                    | 94   | 4.11   |
| Uttar Pradesh, Bihar and Jharkhand   | 23,576   | 22,871                                      | 747                                      | 2  | 0.27   |
| West Bengal  | 34,161   | 32,271                                      | 2,254                                    | 12   | 0.53   |
| <b>Total</b>   | <b>3,47,937</b>  | <b>2,63,340</b>                             | <b>16,193</b>                            | <b>805</b>   | <b>4.97</b>  |

## Appendix 2.2 (Reference: Paragraphs 2.3)

| Category wise details of observations in respect of DPs sent to the Ministry                           |            |                  |
|--|------------|------------------|
| Sub category   | Cases      | TE (₹ in crore)  |
| <b>A. Quality of assessments</b>   | <b>300</b> | <b>1,144.58</b>  |
| a. Arithmetical errors in computation of income and tax  | 39         | 291.17           |
| b. Incorrect application of rate of tax, surcharge etc.  | 50         | 118.40           |
| c. Non/short levy of interest/penalty for delay in submission of returns, delay in payment of tax etc. | 198        | 668.24           |
| d. Excess or irregular refunds/interest on refunds   | 6          | 24.08            |
| e. Errors in assessment while giving effect to appellate orders  | 7          | 42.69            |
| <b>B. Administration of tax concessions/exemptions/deductions</b>                                      | <b>175</b> | <b>2,972.12</b>  |
| a. Irregular exemptions/deductions/rebates/relief/MAT credit   | 30         | 1,733.64         |
| b. Irregular exemptions/deductions/reliefs given to Trusts/ Firms/Societies                            | 3          | 2.85             |
| c. Irregular exemptions/deductions/reliefs given to individuals  | 2          | 1.66             |
| d. Incorrect allowance of Business Expenditure   | 42         | 188.86           |
| e. Irregularities in allowing depreciation/business losses/ Capital losses                             | 98         | 1,045.11         |
| <b>C. Income escaping assessment due to errors</b>   | <b>80</b>  | <b>8639.39</b>   |
| a. Under special provisions including MAT/Tonnage Tax etc.   | 8          | 234.18           |
| b. Income not assessed/ under assessed under normal provisions   | 17         | 1069.86          |
| c. Incorrect classification and Computation of Capital Gains   | 10         | 7015.68          |
| d. Incorrect Computation of Income   | 19         | 19.36            |
| e. Errors in implementing provisions of TDS/TCS  | 7          | 13.89            |
| f. Unexplained investment/ cash credit   | 10         | 249.41           |
| g. Incorrect estimation of Arm's Length Price  | 9          | 37.01            |
| <b>D. Others</b>   | <b>23</b>  | <b>137.04</b>    |
| Over charge of tax/interest  | 23         | 137.04           |
| <b>Total</b>   | <b>578</b> | <b>12,893.13</b> |

**Appendix 2.3 (Reference Paragraph 2.4.6)**

| <b>Details of non-production of records during FY 2017-18 to FY 2019-20</b> |  |   |   |                |                |  |
|---|--|---|---|----------------|----------------|--|
| <b>States</b>   | <b>Records requisitioned in FY 2019-20</b> | <b>Records not produced in FY 2019-20</b> | <b>Percentage of records not produced in FY</b> |                |                |  |
|   |  |   | <b>2019-20</b>                                  | <b>2018-19</b> | <b>2017-18</b> |  |
| Andhra Pradesh & Telangana  | 13,508                                     | 723                                       | 5.35  | 5.05           | 5.26           |  |
| Assam   | 4,327                                      | 258                                       | 5.96  | 2.16           | 0.59           |  |
| Bihar   | 902  | 21  | 2.33  | 5.05           | 6.81           |  |
| Chhattisgarh  | 6,959                                      | 46  | 0.66  | 0.00           | 0.30           |  |
| Delhi   | 43,380                                     | 2,889                                     | 6.66  | 9.32           | 21.45          |  |
| Goa   | 796  | 1   | 0.13  | 2.37           | 2.46           |  |
| Gujarat   | 8,485                                      | 618                                       | 7.28  | 2.26           | 2.40           |  |
| Haryana   | 13,577                                     | 192                                       | 1.41  | 0.68           | 4.77           |  |
| Himachal Pradesh  | 430  | 36  | 8.37  | 1.56           | 5.24           |  |
| UTs of Jammu & Kashmir; and Ladakh  | 1,016                                      | 0   | 0.00  | 10.66          | 1.26           |  |
| Jharkhand   | 2,008                                      | 17  | 0.85  | 1.46           | 2.03           |  |
| Karnataka   | 8,085                                      | 252                                       | 3.12  | 2.91           | 5.64           |  |
| Kerala  | 5,056                                      | 314                                       | 6.21  | 3.22           | 5.01           |  |
| Madhya Pradesh  | 18,324                                     | 533                                       | 2.91  | 3.75           | 11.67          |  |
| Maharashtra   | 46,471                                     | 1,763                                     | 3.79  | 4.86           | 8.59           |  |
| Odisha  | 3,989                                      | 345                                       | 8.65  | 5.99           | 6.94           |  |
| Punjab  | 6,578                                      | 104                                       | 1.58  | 2.35           | 5.08           |  |
| Rajasthan   | 10,513                                     | 106                                       | 1.01  | 4.82           | 9.74           |  |
| Tamil Nadu  | 32,595                                     | 8,618                                     | 26.44   | 12.31          | 11.38          |  |
| UT Chandigarh   | 2,013                                      | 83  | 4.12  | 1.11           | 0.06           |  |
| Uttarakhand   | 2,097                                      | 11  | 0.52  | 0.55           | 1.56           |  |
| Uttar Pradesh   | 17,653                                     | 305                                       | 1.73  | 1.60           | 1.67           |  |
| West Bengal   | 31,177                                     | 2153                                      | 6.91  | 5.11           | 6.49           |  |
| <b>Total</b>  | <b>2,79,939</b>                            | <b>19,388</b>                             | <b>6.92</b>                                     | <b>4.98</b>    | <b>8.27</b>    |  |

| <b>Abbreviations</b> |  |
|----------------------|--|
| ACIT                 | Assistant Commissioner of Income Tax                   |
| Act                  | The Income Tax Act, 1961                               |
| AI                   | Assessed Income  |
| AIR                  | Annual Information Return                              |
| ALP                  | Arm's Length Price                                     |
| AO                   | Assessing Officer                                      |
| AOP                  | Association of Person                                  |
| AST                  | Assessment Information System                          |
| AY                   | Assessment Year  |
| CASS                 | Computer Aided Scrutiny Selection                      |
| CBDT                 | Central Board of Direct Taxes                          |
| CCIT                 | Chief Commissioner of Income Tax                       |
| CIT                  | Commissioner of Income Tax                             |
| CIT(A)               | Commissioner of Income Tax (Appeals)                   |
| CPC-ITR              | Centralized Processing Centre– Income Tax Return       |
| CPC-TDS              | Centralized Processing Centre – Tax Deducted at Source |
| CT                   | Corporation Tax  |
| DCIT                 | Deputy Commissioner of Income Tax                      |
| DGIT (Systems)       | Director General of Income Tax (Systems)               |
| DOR                  | Department of Revenue                                  |
| DT                   | Direct Taxes   |
| FY                   | Financial Year   |
| GDP                  | Gross Domestic Product                                 |
| GTR                  | Gross Tax Receipts                                     |
| IT                   | Income Tax   |
| ITAT                 | Income Tax Appellate Tribunal                          |
| ITBA                 | Income Tax Business Application                        |
| ITD                  | Income Tax Department                                  |
| ITO                  | Income Tax Officer                                     |
| ITR/Return           | Income Tax Return                                      |
| JCIT                 | Joint Commissioner of Income Tax                       |
| LTCG                 | Long term capital Gain                                 |
| PAN                  | Permanent Account Number                               |
| Pr. CCA              | Principal Chief Controller of Accounts                 |
| Pr. CCIT             | Principal Chief Commissioner of Income Tax             |
| MAT                  | Minimum Alternate Tax                                  |
| MOP                  | Manual of Office Procedure                             |
| NSDL                 | National Securities Depository Limited                 |
| OLTAS                | Online Tax Accounting System                           |
| Pr.DGIT              | Principal Director General of Income Tax               |
| Rules                | The Income Tax Rules, 1962                             |
| STT                  | Securities Transaction Tax                             |
| TCS                  | Tax Collected at Source                                |
| TDS                  | Tax Deducted at Source                                 |
| TP                   | Transfer Pricing                                       |
| TPO                  | Transfer Pricing Officer                               |







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